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1
                  IN THE UNITED STATES DISTRICT COURT
                      FOR THE DISTRICT OF MARYLAND
 2
                            NORTHERN DIVISION
 3
    UNITED STATES OF AMERICA,
 4
         Plaintiff,
 5
                                    Criminal No. 23-cr-0278-JKB
    VS.
 6
    CHRISTOPHER KENJI BENDANN,
 7
         Defendant.
 8
 9
            TRANSCRIPT OF PROCEEDINGS - DAY 1 OF JURY TRIAL
10
                  BEFORE THE HONORABLE JAMES K. BREDAR
11
                      AUGUST 23, 2024 AT 9:36 a.m.
12
    APPEARANCES:
13
         ON BEHALF OF THE PLAINTIFF:
           COLLEEN E. MCGUINN, ESQUIRE
           KIM Y. HAGAN, ESQUIRE
14
15
         ON BEHALF OF THE DEFENDANT:
           CHRISTOPHER C. NIETO, ESQUIRE
           GARY E. PROCTOR, ESQUIRE
16
17
         ALSO PRESENT:
           CALISTA WALKER, FBI SPECIAL AGENT
           VICTORIA LIU, PARALEGAL
18
19
20
21
22
           (Computer-aided transcription of stenotype notes)
23
24
                              Reported by:
                        Ronda J. Thomas, RMR, CRR
25
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Ronda J. Thomas, RMR, CRR - Federal Official Reporter

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(9:36 a.m.)
 1
 2
             THE COURT: Good morning, be seated, please.
 3
         Government may call the case.
 4
             MS. MCGUINN: Yes, Your Honor. Good morning.
    Assistant United States Attorney Colleen McGuinn on behalf of
 5
    the Government calling United States of America v. Christopher
 6
    Kenji Bendann. This is Criminal Case No. JKB-23-278. Your
 7
 8
    Honor, standing to my right is also Assistant United States
 9
    Attorney Kim Hagan. Also with us is Special Agent Calista
10
    Walker.
             Behind us is Special Agent Rachel Corn. And we are
    here on behalf of the Government, Your Honor.
11
12
             THE COURT: Good morning.
         Counsel.
13
14
             MR. NIETO: Yes, good morning, Your Honor. For the
15
    record, Christopher Nieto and Gary Proctor on behalf of
16
    Mr. Bendann who is standing between us.
17
             THE COURT: Thank you. And the Defendant is present.
18
         Any matters to address before we bring in the jury,
    Ms. McGuinn?
19
20
             MS. MCGUINN:
                           Not from the Government, Your Honor.
21
             THE COURT: Mr. Nieto?
22
                        Your Honor, I don't know if we made it
             MR. NIETO:
23
    formally earlier in the jury deliberation [sic.] but we would
24
    make a motion for sequestration of the witnesses.
25
             THE COURT: Very well. Witnesses will be sequestered
```

```
1
    in this trial on the Defendant's motion. The motion is
 2
    granted. Anyone who expects to be a witness during the trial
 3
    of this case is forbidden from being in the courtroom during
 4
    the testimony of any other witness, and they must remain
    outside of the courtroom until they have been formally excused
 5
    as a witness in this case. After they have been excused, then
 6
    they may be in the courtroom to hear the testimony of others.
 7
         Unless there's an objection from counsel, I generally
 8
 9
    permit witnesses to be in the courtroom during openings.
10
         Any issues in that regard?
11
             MR. NIETO: No. Your Honor.
             MS. MCGUINN: None from the Government, Your Honor.
12
13
             THE COURT: Okay. So, practical point, Counsel.
    won't recognize your witnesses. So if they happen to come into
14
15
    the courtroom it's going to be on the lawyers to identify them,
16
    to bring that fact to my attention so we can get proceedings
17
    stopped and advise the witness to step out. So, you do need to
18
    periodically look over your shoulder, see who's in the
    courtroom and make sure that we don't have a violation of the
19
    sequestration order. But sequestration is in effect.
20
21
         Any other matters?
22
             MR. NIETO: No, Your Honor. Thank you.
23
             THE COURT: Okay. Let's see, you have demonstrative
```

exhibits. You're going to use the PowerPoint during your

24

25

opening?

```
MS. MCGUINN:
                           Yes, sir.
 1
 2
             THE COURT:
                       You've shown the slides to the --
 3
             MS. MCGUINN: Yes, I sent a PDF of them the other day.
             THE COURT: And you received them?
 4
             MR. NIETO:
 5
                        Yes.
             THE COURT: You, on the other hand, are going to make
 6
    an opening right after the government --
 7
 8
             MR. NIETO: Yes, Your Honor.
             THE COURT: But have no slides?
 9
10
             MR. NIETO: Correct, Your Honor.
11
             THE COURT: Very good. It seems all is in order and
12
    we're ready to proceed. Bring in the jury.
         As a matter of formality, we don't stand for this group at
13
14
    this moment because they haven't yet been sworn as a jury.
    After they're sworn, of course we will stand every time that
15
16
    they enter and exit the courtroom.
17
         Please bring the prospective jurors into the courtroom.
18
         (Prospective jurors enter at 9:40 a.m.)
19
             THE COURT: Be seated, please. Good morning, ladies
20
    and gentlemen.
21
         (Prospective Jurors - "Good morning.")
             THE COURT: Welcome to a different courtroom than the
22
23
    one in which we were assembled on Wednesday and Thursday.
24
    you can see, this is a smaller courtroom environment but one
25
    that I'm sure will serve our purposes very well in the coming
```

```
1
    days as we proceed with this trial.
 2
         Thank you for arriving here this morning on time so that
 3
    we can start our proceeding right on schedule. Your promptness
 4
    is much appreciated. It's also very important to our being
 5
    able to do our work efficiently and in a timely manner.
         The first order of business this morning is for you to be
 6
 7
    sworn as the jury in this case. At this point, you have all
 8
    been selected as prospective jurors to try the case, but you
 9
    are not yet formally constituted as the jury in this case, that
10
    will change in just a moment when the courtroom deputy clerk
11
    administers the jury oath to you.
12
         After taking the role, I think we'll be ready to
13
    administer that oath.
14
         So if you would, please, all rise, and the clerk will
15
    address you.
16
                         Members of the jury panel, as I call your
             THE CLERK:
17
    juror number, will you please orally announce your presence.
18
         Juror No. 1.
19
             JUROR NO. 1:
                           Here.
20
             THE CLERK: Juror No. 2.
21
             JUROR NO. 2:
                           Here.
22
             THE CLERK:
                         Juror No. 3.
23
             JUROR NO. 3:
                           Here.
24
             THE CLERK:
                         Juror No. 5.
25
             JUROR NO. 5:
                           Here.
```

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THE CLERK: Juror No. 6.
 1
 2
             JUROR NO. 6:
                           Here.
 3
             THE CLERK: Juror No. 7.
             JUROR NO. 7:
                           Here.
 4
 5
             THE CLERK: Juror No. 8.
             JUROR NO. 8:
                           Here.
 6
 7
             THE CLERK: Juror No. 9.
 8
             JUROR NO. 9:
                           Here.
 9
             THE CLERK: Juror No. 10.
             JUROR NO. 10:
10
                            Here.
11
             THE CLERK: Juror No. 11.
12
             JURO NO. 11:
                           Here.
13
             THE CLERK: Juror No. 12.
             JUROR NO. 12:
14
                            Here.
             THE CLERK: Alternate Juror No. 1.
15
16
             ALTERNATE JUROR NO. 1: Here.
17
             THE CLERK: Alternate Juror No. 2.
             ALTERNATE JUROR NO. 2: Here.
18
             THE CLERK: Alternate Juror No. 3.
19
             ALTERNATE JUROR NO. 3: Here.
20
21
             THE CLERK: Alternate Juror No. 4.
             ALTERNATE JUROR NO. 4: Here.
22
23
             THE COURT: All members of the jury accounted for.
24
         (Jury sworn.)
25
             THE CLERK:
                        Thank you. You may be seated.
```

THE COURT: Jury sworn.

Once again, good morning, ladies and gentlemen. In this case, at the Government's request, a grand jury has charged the Defendant, Christopher Kenji Bendann with the commission of crimes.

The Defendant is charged with five counts of sexual exploitation of a child in violation of 18 United States Code § 2251(a); three counts of possession of child pornography in violation of 18 United States Code § 2252A(a)(5)(B); and one count of cyberstalking in violation of 18 United States Code § 2261A(2).

Ladies and gentlemen, the Defendant has pled not guilty to each charge, and thus he may not be convicted on any of these charges unless and until after a trial, you, the jury, unanimously find him guilty beyond a reasonable doubt on a particular charge.

The trial will proceed in the following way: Each party has the right to make an opening statement for the purpose of outlining for you what that party expects the evidence to show. The Government's lawyer will make the first opening statement, and then the defendant's lawyers may choose whether to make an immediate opening statement, to wait to make an opening statement later in the trial, or not to make an opening statement at all.

The Government will then present evidence after its case

has been presented through witnesses and exhibits. Then the Defendant will have an opportunity to present evidence if he wishes. He's not required to do so.

If the Defendant elects to present evidence, then the Government will be given an opportunity to present rebuttal evidence in reply.

Each witness is first examined by the party who calls the witness to testify and then by the opposing party; the opposing party is permitted to cross-examine the witness.

During the trial, the lawyers may make objections to the introduction of evidence, or they make motions concerning the law. Arguments in connection with objections or motions are usually made outside of the hearing of the jury, usually over the private channel mechanism that you saw me using when we were selecting the jury.

These questions are addressed outside your hearing because questions of law and admissibility of evidence do not involve the jury, they're decided by the judge.

It's the duty of a lawyer to make objections and motions that the lawyer believes are proper. You should not be influenced by the fact that a lawyer has made objections or by the number of objections that have been made. You should draw no conclusions from my rulings either as to the merits of the case or as to my views regarding any witness or the case itself.

After the conclusion of all of the evidence, the lawyers will make their closing arguments. In their arguments, the lawyers will point out to you what they contend the evidence has shown and the conclusions that they would like you to draw from the evidence.

The Government's lawyers will make the first closing argument and then the Defendant's lawyers will make a closing argument. After the Defendant's arguments, the Government will have an opportunity to make a final argument in rebuttal to the Defendant's arguments.

What the lawyers say in their opening statements, in their closing arguments and in making objections or motions during the trial is not evidence.

The reason the Government goes first in each instance and the reason the Government is allowed rebuttal time in closing argument is because the Government has the burden of proof.

After the conclusion of all of the evidence, I will instruct you as to the law applicable to this case. You must follow and apply the law as I will explain it to you.

Following my instructions, you will retire to the jury room and begin your deliberations. It will then be your function and responsibility to decide the facts.

You must base your findings only upon the testimony, the exhibits received, the stipulations of the parties, and any conclusions that may fairly be drawn from that evidence.

You may not conduct any independent research either by using printed materials or electronic means such as the internet, about the case, its general or specific subject matter, or anyone connected to the case.

Do not visit the scene of any incident mentioned in the testimony or seek advice from friends or acquaintances as to any issues in this case or otherwise conduct investigation outside the courtroom.

The reason for this is that you must decide the case only on the evidence you have heard and seen in the courtroom and on nothing else. To reiterate, ladies and gentlemen, it would be a violation of your oath as jurors if during the trial you were to, say, conduct a Google search concerning a person or subject that is part of this trial. Please do not do it.

Similarly, it would be improper for you to use an encyclopedia to learn about an issue before you or even to look up in a dictionary a word that you hear in the courtroom. You must decide the case on information presented to you here in court and not based on information that you acquire elsewhere.

Similarly, if anyone should try to approach you or talk to you about this case, or if any information about this case is brought to your attention in any form, other than what you hear in the courtroom, please do not discuss it with anyone, including your fellow jurors. Rather, please write a note regarding any such matter and give it to the courtroom deputy

clerk so that she may bring it to my attention promptly.

The following general principles are intended to assist you in judging the evidence and guide you in the performance of your duties as jurors during the course of the trial.

You are the sole judges of whether testimony should be believed. In making this decision, you may apply your own common sense and every day experiences. In determining whether a witness should be believed, you should carefully judge all of the testimony and evidence and the circumstances under which each witness has testified.

Among the factors you should consider are the following:
The witness's behavior on the stand and their way of
testifying; the witness's opportunity to see or hear the things
about which testimony was given; the accuracy of the witness's
memory; whether the witness had a motive not to tell the truth;
whether the witness has an interest in the outcome of the case;
whether the witness's testimony was consistent; whether the
witness's testimony was supported or contradicted by other
evidence; and whether and the extent to which the witness's
testimony in court differed from statements made by the witness
on any previous occasion.

You need not believe any witness even though the testimony is uncontradicted. You may believe all, part, or none of the testimony of any witness.

You must consider and decide this case fairly and

impartially. You should not be prejudice for or against a person because of that person's race, color, religion, age, national or ethnic origin, political or social views, wealth or poverty. You should not even consider such matters.

You should not conclude from any conduct or word of mine that I favor one party or another; or that I believe or disbelieve the testimony of any witness. You, not me, you are the sole judges of the believability of witnesses and the weight of the evidence. You must not be influenced to favor or oppose any person or party by my conduct during the course of the trial. I am neutral.

So this case will take approximately 10 days, perhaps two weeks in total, to try. It's impossible to predict with precision how long a trial is going to last.

During that time, there will be recesses and adjournments of court when you will be excused from this point forward until the case is over and you have rendered your verdict, you may not discuss the case with anyone who is not on the jury. You may not discuss the case even with each other during the trial. You must wait until after you've heard all of the evidence, the closing arguments, and my instructions as to the law.

You may not expose yourself to any news articles or reports that touch upon this case or issues it presents or involving any of the participants in the case. In fairness to the parties in the case, ladies and gentlemen, you should keep

an open mind throughout the trial. You should reach your final conclusions only during your deliberations after having heard all of the evidence, my instructions, and the lawyers' closing arguments.

Until the trial is over, you must avoid all contact of any kind with any of the participants in the trial, except for common courtesy such as the exchange of greetings. Your avoidance must include the parties, the lawyers, the witnesses, and any persons with whom you see in close contact with any of those persons.

Please, remember, you must not use the internet or any device to communicate with anyone about the trial while you are serving as jurors. During recesses, when you are outside of the courtroom, you may turn on your cell phone or other device and contact family members or others about matters that have no relation to the trial. So when you're in the jury room during your breaks, it's perfectly fine to turn on your phone, to read your messages, to communicate with others. Just not about the case.

While we're in the courtroom, however, all electronic devices must be turned off, not merely placed in silent or vibrate mode, but actually turned off. All such devices must also be turned off and may not be used while the jury is deliberating upon its verdict.

Now, if anyone needed to deliver an urgent message to you

while we are in the courtroom, that person may do so by contacting my chambers, which is right behind this wall, and which is staffed the entire time that we are underway. If you want to take out a pen and piece of paper, I will give you now the telephone number that you can share with loved ones or others that might need to contact you in the event of an emergency. And all that person need do is call that telephone number, they will immediately reach my judicial assistant, and my assistant will then bring a note into the courtroom to the courtroom deputy clerk and alert me that one of the jurors has an emergency message. We'll take a recess and inquire into what is transpiring.

So I know in modern times where we're accustomed to having instant communication with our children, our parents and others. It can be a little unnerving to not have a means of contact, except during recesses. The way we get around that is by sharing this telephone number and anyone who might need to reach you urgently, for instance, a spouse or close loved one, has this at their disposal and they can call. The telephone number is (410)962-0950. That's (410)962-0950.

These restrictions on your use of electronic devices in court are necessary to ensure a fair trial. Notebooks have been provided to you to take notes. You're not required or even expected to take notes. The taking of notes is allowed for those who would find it helpful to do so. But it's

1 important not to become so intent upon your notetaking that you 2 miss other testimony from the witness stand. Some persons are 3 very skilled at taking notes at the same time that they're 4 listening. If you're one of those people then sure, that's helpful to you, feel free. But if it's not something you're 6 accustomed to doing, and if taking notes is likely to cause 7 your mind to be pulled away from what is otherwise happening in 8 the court at that moment, then I would caution you about doing that. You might say, well, it's several days of trial, how am 9 I going to remember everything? That's one of the reasons why 10 we have 12 jurors, 12 memories, 12 sets of ears, 12 sets of 11 eyes. And in the deliberation process you'll have the 12 opportunity to refresh each other's memories about things. 13 So 14 notetaking is definitely permitted but is absolutely not 15 required.

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At recesses in the proceedings and at the end of the court's proceedings each day, please close your notebook, place it in the folder, the Redweld that we've provided to you, and then leave that Redweld folder right there on your chair right here in the jury box, right in the courtroom.

Okay, I believe we're ready to begin. We'll hear from the Government first. Who will be delivering the Government's opening statement?

MS. MCGUINN: Your Honor, I will.

THE COURT: Ms. McGuinn, you may proceed.

MS. MCGUINN: Thank you, Your Honor. Just a moment, Your Honor, I apologize. Sorry about that.

Good morning. I don't know if all of you felt what I felt this morning. There's a little of the chill in the air, which is appropriate because it's back-to-school time. Most of the children in the area are going back to school come Monday or in the week or so that follows which always makes me think of the importance of our teachers.

As you sit here, and I say the words "importance of teachers," a favorite teacher of yours may pop into your brain. For me, it's Mr. Wagner, 11th grade, U.S. history.

There are a lot of sayings about the importance of teachers, "If you can read this, thank a teacher."

What the teacher is is more important than what he teaches. A teacher affects eternity. He can never know where his influence ends.

ITTIBITED No. 10. IN the stand of the standard of the stan

And then when <code>[][][]</code> entered young adulthood, the Defendant extorted him using those same instances of exploitation as a

tool to keep his tentacles wrapped around this young man's life, holding him captive, in a sense. And when IIIII tried to block him on social media, ignore his text messages to no longer comply with the demands to send explicit images, to no longer comply with coercive behavior, the Defendant threatened him with exposure.

Ladies and gentlemen of the jury, as the judge introduced it to you earlier, this is the United States of America v. Christopher Kenji Bendann. And I, along with my co-counsel, Kim Hagan; FBI Special Agent Calista walker; FBI Special Agent Rachel Corn; as well as Ms. Julie Jarman, who is our legal assistant, we will be presenting the evidence to you to prove the charges in this case.

Before I tell you more about what we expected the evidence to show you, I want to tell you a little bit about what child pornography is and what it isn't, sort of forewarn you about what you can expect. It is not children in provocative clothing, children in provocative poses, kiddy porn. It is graphic. It's difficult to see. It's difficult to talk about.

You will hear from Judge Bredar at the end of all of this the legal instruction as to what child pornography is but, in essence, it's minors and children engaging in sexually explicit conduct. In this case, we're talking about masturbation of self or by the hands of the Defendant. And we're talking about images of male genitalia. It's tough. It's difficult. And it

can be disturbing. But you will listen to this evidence and you will see these images and you will view the videos and you will evaluate all of this evidence dispassionately, not based on your emotions because that's what you've sworn to do here.

You will use the facts, logic, and your common sense when it comes to evaluating all of the evidence that will be shown to you. But you do need to see it. We need to show it to you. You need to see the background behind the sexually explicit conduct. What's happening? What bathroom is this taking place in? Whose house is that? Whose car is that? What is IIIII wearing; also known as minor victim per the indictment for his privacy.

You will see the Defendant's face, whether it's eerily reflected in a shower door or on the screen itself as he touches the minor victim. You need to hear his voice and you need to hear minor victim's voice. You need to see what is necessary, nothing more.

You will also be seeing some explicit videos of the minor victim as a young adult. This is part of the extortion of the cyberstalking charge that His Honor mentioned earlier. Again, you will see enough for you to understand the emotional distress that this young man was under. What was placed on IDDDD and the continued cyberstalking of him into his young adulthood. It's necessary so that you understand what happened.

You will apply the facts in evidence and common sense and you will fair and impartial because that's what you've sworn to do.

I'd like to tell you a little bit more about what you can expect to hear about over the next several tays. Minor victim, IIIII, attended the Gilman School, which is a private school located inside of the Baltimore City limits. It's an all-boys school. And he began there in first grade. He was one of the youngest in his first grade class. And after he attended grade school, he went on to middle school.

And at the end of seventh grade you'll learn that he faltered. You'll hear some talk about ADHD. You'll hear some talk about just his plain maturity as a young boy. And the decision was made that he would repeat seventh grade but not at Gilman, that he would go to a different school and repeat seventh grade there. And then he would come back starting in eighth grade at Gilman to complete his middle school years. He would be what's called re-classed with the kids who had previously been a year younger than him. It was going to be a challenge.

Your friends are now a grade ahead of you. They're in a different building than you. They're playing JV sports, you're not. They're attending high-school-related social activities, he was not. Not seeing them every day. It was going to be a challenge blending now in with kids who are a school-year

younger who had been there already, saw you leave, saw you come back. That stigma that could be there as to where did he go and why did he come back.

But the biggest challenge of all, ladies and gentlemen, that you will hear about, the one that would prove to be the most painful and difficult and long-lasting would be the exploitation that he endured at the hands of his own teacher and his trusted advisor, Christopher Kenji Bendann.

You see, a person doesn't just wake up one day and become a victim of exploitation. It doesn't work that way. It takes some time. It takes planning. It takes the normalizing of certain behaviors so that those behaviors could then escalate to even worse behaviors.

Comments over tests, as you can see in the top. "I'm sad that you weren't here." Making minor victim feel important.

The bottom, "Because we're best friends." Mind you, this is a 32-year-old man speaking to a 15-year-old boy. "You're my best friend" or "We're best friends."

Normalizing charged behavior or innuendo: "Okay. What if we come now and Spooner" -- who is one of his friends -- "just meets you in the shower."

Again, mind you, a 32-year-old man speaking to a 15-year-old boy via text. Normalizing this innuendo. Which then evolves to naked running, naked laps. You'll hear about this.

Minor victim and his friends would run through the night without their clothes on at a nearby park called Meadow Wood or St. Paul School, which is another private school nearby. It sounds like horseplay until you understand that it was their teacher who drove them there, who made the idea possible, who watched these boys, including minor victim, as they ran around naked while they just recently had been his students. And in one case records the running of minor victim running naked or running a naked lap and saves it onto his laptop.

That horseplay behavior then evolves to: "You owe me,
'Minor Victim,' look at everything I've done for you. I've
driven you around. I pick you up from places. I take you to
practice. I buy you food." McDonald's or McDanks, as they
call it. "Just masturbate yourself in front of me." "How about
this, let me film you while you masturbate in front of me?"
Or, "How about this, let's do more than that or I'm going to
tell your friends about it, let me touch you, let me masturbate
you in the shower."

Let's normalize all of this behavior for you but not as equals, as an adult and as a trusted person and the other person is a child.

And you will hear that even as that child, minor victim, becomes older and becomes a young adult, you'll hear that he starts to question these behaviors. He starts to resist them.

But even as he leaves home and goes away to college and for the

```
first time moves away, the Defendant's influence didn't end
 1
 2
    there because you will hear that he continued to exploit him.
 3
    That influence, not as a teacher but as his exploiter,
 4
    continued.
         These are a sample of texts from 2022 that you will expect
 5
    to hear, at this point minor victim is 21 years old: "So you
 6
    know what you're doing is absolute fucking bullshit." It's a
 7
    total change in tone from what you just saw before. And we
 8
 9
    expect to show you more of that.
         He continued to threaten, harass, humiliate, extort and
10
    cyberstalk minor victim, almost daily. He knew where he was
11
12
    all the time. We'll hear he knew the name of his girlfriend in
13
    college, his best friend in college. He knew where he was.
                                                                 He
14
    had geolocation on him on his iPhone and through SnapChat.
15
         He even credited a fake Instagram page called [[[]]],
16
    which my brain always reads as "F [[[[]]."
17
         He created a fake it Instagram page putting these explicit
18
    images on it and threatening, I can make this public for people
19
    to see. And I expect you will see what that page looks like.
    He would make it temporary public. "Fuck you, you're public,"
20
21
    says that text.
22
         Bringing and threatening minor victim to absolute
    submission. "I will literally do anything" -- no fighting it
23
    -- "if you can just wait." "Fuck boy. Answer. Fucking answer
24
```

my text."

25

In addition to the text messages and the child pornography that you will see, you will also be seeing some of the digital forensics in this case. So you'll be seeing some images and videos. You'll hear about the digital forensics in this case, where these images were found, what devices were used to create them, how we know those devices belonged to the defendant, where they were stored, on his iCloud account and on the devices that were seized.

You'll hear about these text messages. You'll see some records, and you will have testimony from law enforcement who were present during a search warrant when those devices were taken from the Defendant's home. You will hear from IIIII's family, his girlfriend and his friends, all of whom were there having no idea the mental and emotional torment IIIII was under and was enduring. But they have a piece of the puzzle, nonetheless.

Now I'd like to tell you a little bit more about the criminal charges in this case. Judge Bredar just highlighted them for you. There are three types of crimes: The first is sexual exploitation of children. There are five counts of this. One occurring on September 16th of 2017; June 21st of 2018; August 26 of 2018; January 2nd of 2019; and February 9th of 2019. All while minor victim was under the age of 18.

Sexual exploitation of a child. Again, Judge Bredar will give you the formal instructions but these are the elements

that you can listen for as you hear the evidence in the testimony. It's using a minor, a person under 18, to engage in sexually explicit conduct for the purpose of producing a visual depiction, an image or a movie, in interstate and foreign commerce. Again, you'll hear more about that last one using something like an iPhone, that's manufactured outside of the United States, or outside of the state of Maryland, or using the internet. That's what we're talking about for there.

Three counts of possession of child pornography. Knowing possession of a visual depiction, the visual depiction itself is child pornography. Again, you'll be instructed as to specifically what that is. Again, in interstate and foreign commerce. The three counts include his Apple iCloud, his Dell laptop and his Sony laptop.

Lastly, cyberstalking with intent to harass and intimidate. Uses an interactive electronic communication services of interstate commerce to engage in a course of conduct that causes, attempts to cause, or reasonably would be expected to cause substantial emotional distress. And there is one count of that and that occurred when minor victim was now an adult, a 21 year old in the spring/summer of 2022.

influence was sexually exploitive, it was coercive, and emotionally distressing. And after evaluating all of the evidence in this case we will come back here and we will ask you to see this pattern of conduct clearly for what it is, and we will ask that you find the Defendant guilty of all charges. Thank you.

THE COURT: Thank you, Ms. McGuinn. Now, ladies and gentlemen, as will happen from time to time during the trial we are going to take a very short recess. During this recess, do not discuss the case with anyone. Do not discuss it among yourselves. Do not allow yourselves to be exposed to any news articles or reports that touch upon the case or the issues it presents, or any articles or reports that might relate to the participants in the case. Avoid all contacts with any of the participants in the trial. Do not make any independent investigation of the law or the facts of the case. Do not look up anything on the internet. Do not consult and encyclopedia or a dictionary.

Under the law of our land, I'm required to give you that admonition literally every time you leave the courtroom. In the matter of a day or two you'll be able to repeat it back to me, but that's on purpose. These are important instructions.

We follow a certain protocol when the jury enters and leaves the courtroom. When the jury is excused, all the jurors rise. The back row files out first, which means that Alternate

```
1
    Juror No. 4 leads the group out. As soon as the back row has
 2
    drained into the jury room, then Juror No. 8 leads the front
 3
    row out.
 4
         When it's time for you to take your places because we're
 5
    ready to resume proceedings, you line up in order, which was
 6
    apparent when you came in a few minutes ago. The first row
 7
    comes in, you remain standing, the second row files in behind.
 8
    Once everyone is standing and in place, we will ask you to be
 9
    seated.
         One thing you will notice, ladies and gentlemen, you're
10
    now a sworn jury. Out of respect for the role in the jury
11
12
    process, everyone stands when you exit or enter the courtroom,
13
    including the judge.
         Please take the jury out.
14
         Recess. Ten minutes.
15
16
         (Jury exits at 10:19 a.m.)
17
             THE CLERK: All rise. This Honorable Court now stands
18
    in recess.
19
             THE COURT: Mr. Nieto, you will be delivering an
20
    opening?
21
             MR. NIETO: Yes, Your Honor.
22
             THE COURT: Take a few minutes and get yourself
23
    organized. And we will resume. Ten minutes.
24
              (There was a break at 10:20 a.m. to 10:54 a.m.)
25
             THE COURT: Be seated, please. That was intended to
```

```
be a brief recess but during the recess it was discovered that
 1
 2
   we had an IT glitch. All of you have been in here, I have not
 3
    been, but I'm told that the technicians have been working hard
 4
    and believe they have now resolved it. We do have an
 5
    alternative plan ready to execute, which would have us move to
 6
    a different courtroom. But with this fix we're going to try to
 7
    stay here and move ahead. I apologize for the delay and the
 8
    difficulties that we're having with our technology, but we seem
 9
    to be ready to go now.
         Is the technology apparently working?
10
11
             THE CLERK: It is, Judge.
             THE COURT: Counsel, have you had a chance to sort of
12
13
    check it out, make sure we're good?
14
             MS. MCGUINN:
                           Yes.
            MR. PROCTOR: Yes, Your Honor.
15
16
             THE COURT: Okay, Mr. Proctor.
17
         Are we ready for the jury?
18
             MS. MCGUINN: Yes, Your Honor.
19
             MR. NIETO: Yes, Your Honor.
20
             THE COURT: Bring the jury in.
21
             THE CLERK: All rise for the jury.
         (Jury enters at 10:55 a.m.)
22
23
             THE COURT: Be seated, please. My apologies for the
24
    delay, ladies and gentlemen. We had an IT glitch. We think we
25
    have solved it. We're now ready to continue.
```

```
Mr. Nieto, on behalf of the Defendant do you wish to make
 1
 2
    an opening statement?
 3
             MR. NIETO: Yes, Your Honor.
             THE COURT: You may proceed.
 4
 5
             MR. NIETO: Good morning, ladies and gentlemen.
 6
    the judge has indicated, my name is Christopher Nieto along
 7
    with my cocounsel, Gary Proctor. We both represent Christopher
    Bendann in this case.
 8
         Now, we sat there just like all of you and listened to
 9
10
    what Ms. McGuinn had to say in her opening. To be candid, if
11
    that were it, right, if that's what this case was about, if
12
    that truly encapsulated what was going on here, ladies and
    gentlemen, we wouldn't be here. We wouldn't need to be here.
13
    But we are here. And the reason why we're here is because
14
    Mr. Bendann is not guilty of sexual exploitation of a minor or
15
16
    possession of child pornography.
17
         Now, to be clear, to be clear, there is one charge that is
18
    not in dispute and that is the cyberstalking offense.
19
    Absolutely, 100 percent, we accept responsibility for that
20
    offense. There is no disagreement on that charge.
         Indeed, by all accounts, this adult relationship was
21
    toxic. We see that now.
22
         Mr. Bendann's conduct of course was not only
23
24
    embarrassingly regrettable, but it was against the law.
                                                             A11
25
    right. And that is what this case is about.
```

When this friendship evolved into a romantic relationship,

For goodness sake, you're going to hear through the testimony that Mr. Bendann had rules with regards to his students. He would not, for example, become social media friends with them while they were his students. It was only until they went into high school. Certainly, he was not going to engage in illegal or an illicit relationship with a minor.

 off, he did and said things that he deeply regrets. His feelings, obviously, got the better of him.

Now, with time and distance we've been able to recalibrate, he acknowledges that, but the evidence is going to show that at the time he was just concerned about being, for lack of better phrase, left mind.

They had obviously known each other for years before we had gotten to this evolved point, and it wasn't easy for him to just let it go.

But obviously, his actions did not work. They cannot work. They could not work. And they never would work because you cannot sustain any type of relationship that way. Much less one that was as marginalized as this.

So now here we are.

Now, throughout this trial you're going to hear a lot about the Gilman School here in Baltimore and that's because Mr. Bendann was employed there as a middle school teacher. The Gilman School by all accounts is an illustrious, expensive, all-boys, private school, almost a world onto itself. Affluent families from the area and throughout the state will pay top

dollar for their children to receive individualized attention and care, much more so than you would see at a normal public school. There are generations within a family, generations of men that pass through those doors. And you're going to hear from witnesses who are going to talk about their patients and grandparents who attended the same school.

Indeed, Mr. Bendann himself was also a Gilman graduate. His adoptive father was a teacher there, and he was a graduate of Gilman as well.

Obviously, with that type of institution there are a lot of benefits, but, as I'm sure you can also imagine, there can be some peculiarity. The evidence is going to show that this was and is an insular community practically with this little subsociety amongst itself. To people outside of that bubble, you may consider certain things odd or strange, but within that echo system, completely normal, even expected or appreciated within this community.

So, for example, you're going to hear from a variety of graduates who, for whatever reasons, thought it was hysterical to post pictures of each other naked. To take pictures of each other naked and post those on Snapchat or send them back and forth to each other. Just a bunch of guys taking pictures of each other naked for laughs. That may seem odd to people outside of that bubble, such as all of you, but it wasn't to them.

Respectfully, we caution you to view things with that understanding because through that prism it's going to give you some additional clarity as you hear and see the evidence throughout this case.

Now, as I said earlier, Mr. Bendann is a Gilman graduate. His father was a teacher there. And he returned after college to teach at the middle school. With the exception of those four years away in college, his entire life had entered around Gilman.

And as the evidence will show, during his tenure there he was widely regarded as one of the best teachers that that school had to offer. He was involved as a teacher. He was a mentor. He led retreats. He offered a warm and receptive ear to any student that had any questions or concerns.

As a gay man, he was involved in the cultivation of the LGBTQ+ awareness at an all-boys school, something that was seriously lacking when he was a student there and arguably even now. His whole life centered around Gilman and being the best teacher that he could be because he believed in the institution, the creation of young men that will move on in life and do great things. That is that educational edict at that school.

Now, as a teacher, he didn't make much money. He doesn't own a million-dollar house in Baltimore County. So as a way to supplement this relatively low salary, he would house-sit and

babysit for families within that community. Word got around that he was great at this. And families, whether they were jet-setting around the world or traveling for weekends to see their son's athletic events in college, they sought out his services. He provided this important, integral function for the Gilman community. He was instrumental in caring for these students, and he did it well.

As an involved teacher, he became friendly and close with various sort of social groups, cliques, if you will. Again, at Gilman this is not unusual. It's not unheard of. In fact, it was encouraged by teachers and parents alike. They would email, constantly communicate: My son need this. Can you do this? Can you go above and beyond?

Every time, Mr. Bendann answered that call.

That's one of the reasons why the families pay as much as they spend to send their sons to this school. Mr. Bendann was a mentor to hundreds of students throughout the years.

As the evidence will show, when the students matriculated to high school, he remained in their lives not as a teacher but as a Gilman alum. He would take them out for wing night. He would go to the movies. He would drive around a car full of Gilman students, some non-Gilman student friends. Sometimes their female friends from either associated school or not. He would do that regularly.

As to be expected of course, as a teacher, he appreciated

watching and being able to see the growth of his students as they continued to move on. He remained in their lives as an extension of this school and community and in an attempt to be their friends.

You will see, Mr. Bendann kept these notebooks from these retreats, another Gilman experience that he was proud to help Foster. And in those notebooks they're just filled with the most wonderful and kind, sincere thoughts from these students, appreciating exactly who Mr. Bendann is.

Now, being friends, if you will, with high school boys can be a challenge, even more so in this particular social group where we have the majority of them are varsity lacrosse players for this school. As you all presumably know as Marylanders, Maryland is a big LAX state and the Gilman is no stranger to the lacrosse system. They follow their graduates from D3 all the way to D1 college programs throughout the country.

You're going to hear from a variety of them throughout this trial, all of whom play college lacrosse, all of whom played lacrosse together at Gilman. They consider themselves a brotherhood, a second select of young man, right, where telling people "I'm a Gilman LAX man" is as much about the status as it is about the athletics. As I'm sure you can all imagine, and the evidence will show, these young men spend their time lifting weights, chasing girls, and partying.

As I'm sure you can also imagine, as the evidence will

show, there can be a pervasive locker room mentality that can associate itself with situations like that. Circumstances in which crude language, inappropriate slurs and slang are thrown around the locker room or text threads as if it is wholly acceptable. Again, contrary to the edicts of the Gilman School. Ladies and gentlemen, as the evidence is going to show, that played a huge part in how this situation developed.

Now, to be sure, Mr. Bendann is not affiliated with the lacrosse program or the interests or opinions that you're going to hear about that they were espousing. Indeed, his continued involvement with this specific group of young men was to partially help offset that alpha male, testosterone-fueled interactions with a bit more of a softer approach. If you will, a yin that yang.

So how can one do that?

Well, when you house-sit, you take them out for group breakfast, you take them out for wing night, you spend time with them, you encourage them to do better, you tell them to treat people kindly, you correct them when they use offensive and derogatory language.

We all know that kids will do and say stupid things, and as the evidence will show he provided counsel and support as they tried to navigate through. But he was never one of them. No matter how much he cared for them, no matter how much he looked after them, no matter how much he thought he was part of

their friends, to them he was never one of them. Right.

He's just the guy that they could call when they were drunk and needed someone to pick them up at 1:30 in the morning. He's the guy, "Oh, he's house-sitting at this house, we can go over there and we'll just drink" because, again, he's just Bendann.

Consequently, the entire Gilman community turned against Christopher Bendann. They've circled their wagons, they are protecting their own, and they are ostracizing him. That is why we are here.

Before I conclude, there are three things that I would be remiss if I didn't discuss very, very briefly with you. Judge Bredar already addressed it. But, firstly, in all criminal cases the Defendant Mr. Bendann is presumed to be innocent of absolutely all charges. These opening statements, it's just a roadmap for how we vision the evidence in this case shaking out.

Secondly, the burden of proof rests wholly on the shoulders of the Government to establish that Mr. Bendann is in fact guilty. They are required to call forth witnesses who are

going to sit in that stand and testify as to how he allegedly broke the law. That is because it is their burden.

Interestingly, as a bit of trivia for you, as it is in all criminal cases the party with the burden sits closest to the jury box. That is a physical manifestation, a reminder of what that burden entails. That's why I'm only going to get an opportunity to speak with all of you one more time at the close of the case. The Government will get to go twice. They will go first, I will respond, and then they will respond to me.

But with regards to the evidence in this case, you're not going to see anything akin to DNA or some sort of other infallible-type proof. That is important because standard of proof here is beyond a reasonable doubt.

As Ms. McGuinn suggested, as I'm sure you are all aware, subject matter at the heart of this case can be uncomfortable to many, if not most. There can be an inclination that just based on the subject matter that that can help cloud your vision and your judgment when you listen to the evidence. I'm just asking you to follow the judge's instructions, please don't do that. You must observe the witnesses and listen to their testimony as well as the cross-examination and make independent decisions about what you hear.

I appreciate your time in allowing me to talk to you obviously. I will talk to you again at the conclusion of the case. They are required, that is the Government, to prove

```
these allegations beyond a reasonable doubt. As the evidence
 1
 2
   will show, the only verdict appropriate for the sexual
 3
    exploitation of a minor or the possession of child pornography
 4
    is not quilty.
         Thank you all.
 5
             THE COURT:
                        Thank you, Mr. Nieto.
 6
         Is the Government prepared to call their first witness?
 7
             MS. MCGUINN: Yes, Your Honor.
 8
             THE COURT: Who will it be?
 9
                           The Government will first call [[]]
10
             MS. MCGUINN:
11
   0000000.
             THE COURT: [[[[[[[[[]]]]]]]]]. Please come forward, ma'am.
12
13
    When you reach the witness stand, stop there, turn to face our
14
    clerk, raise your right hand.
15
         (Witness sworn.)
             THE CLERK: Thank you. You may take a seat in the
16
17
    witness stand.
         For the record, ma'am, speaking directly into that
18
    microphone right next to you, could you please state and spell
19
    your first and last name.
20
21
             THE WITNESS: Sure. 000000000. 0000000, 0000000
22
    23
             THE CLERK:
                        Thank you.
                         It might assist you if you make sure the
24
             THE COURT:
25
    chair is all the right, which will position you right in front
```

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1
    of the microphone.
 2
              THE WITNESS: Thank you.
 3
              THE COURT: That's it. And if you could, keep your
 4
    face close to the mic while testifying.
 5
              THE WITNESS: Okay. Perfect.
              THE COURT: Your witness, ma'am.
 6
 7
              MS. MCGUINN: Thank you, Your Honor.
 8
                            DIRECT EXAMINATION
    BY MS. MCGUINN:
 9
         Good morning, [[[[[[[[[[]]]]]]]]]. How old are you?
10
    Q.
11
         I am 58 years old.
    Α.
12
         Are you married?
    Q.
13
         I am.
    Α.
14
         Do you have any children?
    Q.
15
         We have three.
    Α.
16
         What's your husband's name?
    Q.
17
         000?
    Α.
         And what are your children's names?
18
    Q.
19
         [[[]]] is the oldest, [[]][] and [[][].
    Α.
20
    Q.
         And what is IIIIIIII age?
21
    Α.
         [[[[]]]] is 28.
22
    Q.
         And [ ] [ ] [ ] ?
23
    Α.
         Is 25.
24
    Q.
         And [ ] [ ] [ ] ?
25
    Α.
         Is 23.
```

Ronda J. Thomas, RMR, CRR - Federal Official Reporter

- 1 \mathbf{Q} . And \mathbf{Q} \mathbf{Q} , is that your son?
- 2 **A.** Yes.
- 3 **Q.** And does he have a full, formal name?
- 4 A. He does.
- $5 | \mathbf{Q}$. What is that?
- 7 **Q.** Is **IIIII** a family name?
- 8 A. It is.
- 9 **Q.** Do you all call him that? Do you call him [[[[]], not
- 10 | 000000?
- 11 **A.** We do.
- 12 **Q.** What is **IIIIII**'s date of birth?
- 13 **A.** March 20th, 2001.
- 14 $|\mathbf{Q}$. IIIII is the minor victim in this case as charged in the
- 15 | indictment; is that correct?
- 16 **A.** Yes.
- 17 **Q.** So if I say "minor victim" or "[[[[[]," you'll understand
- 18 | who I'm talking about?
- 19 **A.** Yes.
- 20 **Q.** And where did [[[[]]] attend kindergarten?
- 21 A. The Good Shepherd School.
- 22 **Q.** After kindergarten, did [[[[]]] begin grade school?
- 23 **A.** He did.
- 24 **Q.** Where was that?
- 25 A. That was at Gilman, the Gilman School.

- 1 **Q.** And the Gilman School, do you happen to know the address?
- 2 A. 5407 Roland Avenue.
- 3 **Q.** And what city and state?
- 4 | A. Baltimore City, Maryland 21210.
- 5 **Q.** Thank you. At the time that he began to attend Gilman,
- 6 was there a kindergarten at Gilman?
- 7 **A.** There was not.
- 8 **Q.** Was there something called pre-first?
- 9 A. Yes, there was.
- 10 **Q.** Can you explain what pre-first is?
- 11 | A. Sure. It's a developmental year for in this case boys who
- 12 were not ready for first grade, whether it be for academic,
- 13 emotional, social reasons. And so it was really -- we called
- 14 it the gift of time for these boys to develop. And so most --
- 15 I don't want to say most -- but many of our boys that go
- 16 | through Gilman do experience a pre-first year.
- 17 **Q.** And I'm going to jump the gun a little bit --
- 18 **A.** Sure.
- 19 **Q.** -- you said "our boys." Did you ever work at Gilman?
- 20 A. I'm sorry, yes, I did.
- 21 **Q.** Okay. So when you say that it's because of your
- 22 employment at Gilman?
- 23 **A.** Yes.
- 24 **Q.** Okay. We'll get back to that.
- 25 A. Sorry.

- $1 \mid \mathbf{Q}$. That's okay. I just want to get back to that.
- 2 As far as Gilman is concerned, what type of school is
- 3 | that?
- 4 A. It is an all boys, independent school.
- 5 **Q.** Private school?
- 6 **A.** Yes.
- 7 **Q.** That you and your husband pay tuition for your son to have
- 8 attended there?
- 9 **A.** Yes.
- 10 **Q.** And are you aware of the school having three divisions?
- 11 **A.** Yes.
- 12 **Q.** And what are those?
- 13 **A.** The Lower School which is pre-first, now pre-K through
- 14 | fifth grade. And then middle school is grade sixth through
- 15 eighth. And Upper School is nine through 12.
- 16 **Q.** Where does your husband work?
- 17 A. At the Gilman School.
- 18 **Q.** What does your husband do at the Gilman School?
- 19 A. He is the director of finance.
- 20 **Q.** After minor victim finished grade school, did he attend
- 21 | middle school at Gilman graduate as well?
- 22 **A.** He did.
- 23 Q. And you said it, but I believe middle school at Gilman is
- 24 | sixth, seventh, and eighth grade?
- 25 **A.** Yes.

- 1 $| \mathbf{Q}$. And did there come a time during those years that you too
- 2 began to work at Gilman as you sort of said before?
- 3 **A.** Yes.
- 4 **Q.** And do you recall what year that was that you may have
- 5 | started there?
- 6 A. Yes. So I began my tenure at Gilman in 2011. So the
- 7 | victim would have been in fifth grade.
- 8 **Q.** Okay. What was your job at Gilman?
- 9 **A.** I worked in the admissions office.
- 10 \mathbf{Q} . Can you describe just a little bit of what that means when
- 11 | you worked at the admissions office?
- 12 **A.** Sure. So our office was responsible for recruiting young
- 13 boys, well, now pre-K through 12, to come to Gilman.
- 14 **Q.** Okay. And when your son began middle school, you were
- 15 | working there at the time?
- 16 **A.** I was, yes.
- 17 **Q.** Did you come to know a person by the name of Christopher
- 18 Bendann?
- 19 **A.** I did.
- 20 **Q.** Do you see him in the courtroom today?
- 21 **A.** I do.
- 22 **Q.** If you could just indicate or point to where he's sitting.
- 23 If the record can reflect that the witness has identified
- 24 | the Defendant?
- THE COURT: Without objection?

- 1 MR. NIETO: Correct, Your Honor.
- THE COURT: The record will reflect that the witness
- 3 has identified the Defendant. You may continue.
- 4 MS. MCGUINN: Thank you, Your Honor.
- 5 BY MS. MCGUINN:
- 6 **Q.** Did you have a working relationship with the Defendant?
- 7 **A.** I did.
- 8 **Q.** Can you describe that?
- 9 A. Sure. I knew the Defendant when I first came to Gilman in
- 10 2011 because it was not uncommon for the boys in Lower School
- 11 | to want to -- like, they were very curious to know who
- 12 Mr. Bendann was.
- 13 **Q.** Okay.
- 14 A. And by middle school they wanted to be with Mr. Bendann.
- 15 It was as if he was a pied piper. There was this magnet that
- 16 | these boys, at a very young age, they couldn't wait to get to
- 17 | middle school so they could be closer to him.
- 18 | Q. As a co-worker did you actually work and do parts of your
- 19 job with the Defendant?
- 20 **A.** Yes.
- 21 **Q.** Can you describe that part of the relationship?
- 22 **A.** Sure. Yes. So as part of the admissions team because
- 23 there are three separate schools, we have admissions teams for
- 24 | the Lower School, the Middle School and the Upper School. And
- 25 the Defendant was a member of our Middle School admissions

- 1 team.
- $2 \mid \mathbf{Q}$. So would you go to certain events, recruiting events,
- 3 admission events, and sometimes the Defendant would be present?
- 4 **A.** Yes.
- 5 **Q.** And how would you describe the nature of your relationship
- 6 | with him then, was it friendly?
- 7 **A.** Very.
- 8 **Q.** Were you social with him?
- 9 **A.** Yes.
- 10 **Q.** And when I say social, was that for Gilman activities
- 11 | outside of Gilman? Both? Something else?
- 12 **A.** Both.
- 13 **Q.** How would you describe your level of trust in him at the
- 14 | time your son was in middle school?
- 15 A. Oh, I trusted him implicitly.
- 16 Q. After [[[]] finished seventh grade, was there a decision
- 17 | made in terms of his schooling?
- 18 **A.** Yes.
- 19 **Q.** What decision was that?
- 20 **A.** A decision that my husband and I and Gilman's Middle
- 21 | School leadership thought it would be best for [[[[]]] to
- 22 reclassify and repeat the seventh grade at another school.
- 23 **Q.** And which school did he go to to redo or re-class seventh
- 24 grade?
- 25 A. The Calvert School.

- 1 | Q. And do you know, just generally, where the Calvert School
- 2 | is located?
- 3 **A.** Yes. It's in the Tuscany-Canterbury neighborhood in
- 4 Baltimore City, about a five-minute drive from Gilman.
- 5 **Q.** Okay. And what was the reason, if you can, for making
- 6 that decision for your son?
- 7 A. Sure. So when [[[[]] started at Gilman in the first grade,
- 8 | we really wanted him to go to prep, pre-first. But his scores,
- 9 part of the admissions process, his testing and his scores and
- 10 | such was that he was ready for first grade. They did not think
- 11 | it would be a good idea -- Gilman did not think it would be a
- 12 good idea for him to go to pre-first. Sorry.
- 13 **Q.** That's okay. So after now starting first at the end of
- 14 | seventh grade, did you notice some differences --
- 15 **A.** Yes.
- 16 **Q.** -- in your son that made you think repeating seventh grade
- 17 | would be a good idea?
- 18 A. Yes. So our son started in the first grade, he was
- 19 enthusiastic about learning. He loved life. He had amazing
- 20 | friends. Just -- my mom said, don't ever squelch his spirit
- 21 and that was the Defendant --
- 22 **Q.** Well, that was your son you were describing --
- 23 **A.** My son, yes. Sorry.
- 24 **Q.** [[[[[[[[[]]]]]]], just take a minute, okay. Just take a
- 25 second.

- 1 **A.** Okay.
- 2 **Q.** So at the end of seventh grade, what was the reason then
- 3 | for wanting him to redo seventh grade?
- 4 It's okay. Take a second.
- 5 **A.** We were noticing, particularly when he started the middle
- 6 school, that his attention was becoming -- he was becoming
- 7 unfocused. He was a bit disruptive in the classroom in a funny
- 8 | way, if you read the report cards.
- 9 **Q.** Class-clownie-type stuff?
- 10 **A.** Exactly.
- 11 **Q.** Yes, ma'am.
- 12 **A.** And we had questioned all the way through Lower School
- 13 whether or not our son would repeat that year. But, again,
- 14 | continued through. And by seventh grade we were noticing not
- 15 only a behavioral shift but an academic shift where he just --
- 16 he was not turning in assignments. And this is the boy who
- 17 | loved school.
- 18 **Q.** So there were some maturity issues?
- 19 **A.** Yes.
- 20 **Q.** And he needed what you described earlier for pre-first,
- 21 just that gift of time?
- 22 **A.** Exactly.
- 23 **Q.** Okay. I understand. After he went to Calvert School and
- 24 repeated seventh grade, what was the plan in terms of your son
- 25 and going on to eighth grade?

- 1 A. Yes. Our son was adamant about coming back to Gilman and
- 2 graduating from Gilman's middle school. That was his school.
- 3 He went reluctantly to Calvert, understood the reasoning behind
- 4 it. He was actually the youngest, one of the youngest boys in
- 5 his class, in the class of 2019 graduates. There was -- his
- 6 best friend was a year and a day older than he was.
- 7 | Q. Okay. So when he came back to Gilman, he came back for
- 8 eighth grade?
- 9 **A.** Yes.
- 10 **Q.** And there's a high school, correct?
- 11 **A.** Yes.
- 12 \mathbf{Q} . And you just mentioned his friends who were the class of
- 13 2019, had those children moved on to the high school?
- 14 A. They had.
- 15 \mathbf{Q} . Did you notice anything about your son socially upon
- 16 returning to eighth grade and his friends being in the high
- 17 | school?
- 18 | A. His year at Calvert was very difficult across the board
- 19 | academically, socially, emotionally, behaviorally. So he was
- 20 | entering a summer where he then needed to figure out or truly
- 21 understand that he would be returning to Gilman and not being
- 22 | with his best friend since first grade, that they would be in
- 23 the Upper School, and he would be joining a new group of boys
- 24 | in the eighth grade.
- 25 So in terms of his demeanor, there was a sadness to him.

- 1 There was a -- he lacked confidence. He had -- he was angry at
- 2 his parents. Just didn't understand why we chose seventh grade
- 3 to be the year that he would repeat.
- 4 **Q.** And are you familiar at Gilman School with the middle
- 5 | school and something that's called an advisor?
- 6 **A.** Yes.
- 7 | Q. Can you describe that a little bit for the ladies and
- 8 gentlemen of the jury?
- 9 | A. Sure. So another one of the edicts of Gilman is it's all
- 10 about the teacher/coach/advisor model. So all of our teachers
- 11 | teach, they coach, and they advise. And that is something the
- 12 | school has been doing since 1897. It's what is at kind of the
- 13 | core of the institution.
- So in eighth grade when he was returning -- and I do know
- 15 | that the Defendant and my son had been in communication while
- 16 he was at Calvert. At that time my son was pulling away from
- 17 us and leaning more to the Defendant.
- 18 | So when he started -- during the summer at that point I am
- 19 | still at Gilman. I am the head of enrollment there. And I
- 20 asked the head of the middle school if it would be possible for
- 21 | the Defendant to be our son's advisor because of the
- 22 | relationship that they had had.
- 23 **Q.** Okay.
- 24 A. It was a safe place for him.
- 25 **Q.** So tell us, what does an advisor do?

- 1 A. Sure. So an advisor pretty much oversees all of the
- 2 emotional, social aspects of a child's development. They also
- 3 are the primary contact for parents about any issues. They're
- 4 | in regular contact with all of the academic teachers.
- 5 So, for instance, in the Defendant's case he was our son's
- 6 history teacher as well as his advisor as well as his squash
- 7 | coach. So that would be an example of how it all --
- 8 **Q.** So he had a prominent role in your son's life come eighth
- 9 grade?
- 10 A. Yes.
- 11 | Q. And you were good with that?
- 12 **A.** Very.
- 13 **Q.** Would he sometimes drive your son around, like, from
- 14 | Gilman to home or from home back to Gilman?
- 15 **A.** He would. With both my husband and I working there in
- 16 | leadership roles sometimes we would have to leave early or the
- 17 | Defendant would offer to take our son to breakfast. At the end
- 18 of the day he offered to drive our son to and from squash or to
- 19 and from our home.
- 20 **Q.** Okay. Were you aware of whether or not your son and the
- 21 | Defendant would sometimes -- you mentioned breakfast -- but
- 22 | sometimes go out to eat for other meals during the day?
- 23 A. Yes. I don't believe during the day.
- 24 **Q.** Okay.
- 25 **A.** They were not allowed to leave campus during the day but

1 after school?

- 2 **Q.** After school and maybe on weekends?
- 3 **A.** Yes.
- 4 Q. And you were aware of that social aspect of their
- 5 | relationship?
- 6 A. I'm sure there are emails that say "Thank you so much.
- 7 You have really helped get our son through a very dark time."
- 8 Q. Okay. As a working mother, you were okay with that?
- 9 **A.** Very. I trusted him.
- 10 **Q.** IIIII graduated eighth grade in 2016?
- 11 **A.** Uh-huh.
- 12 **Q.** If we could bring up Government's Exhibit 1. It's going
- 13 to appear right on the screen in front of you if you look down.
- 14 Do you recognize that?
- 15 **A.** I do.
- 16 \mathbf{Q} . What is that?
- 17 A. That is our son and the Defendant at the eighth grade
- 18 | closing ceremony at Gilman.
- 19 **Q.** So that was 2016?
- 20 **A.** Yes.
- 21 **Q.** If we can go to Government's Exhibit 2, please. What is
- 22 this?
- 23 A. This is a celebration of -- all of the boys in this
- 24 | photograph also graduated in the eighth grade from Gilman, and
- 25 there was a celebration luncheon afterwards and the families

- 1 | all invited the Defendant to be with the boys and families to
- 2 celebrate.
- 3 **Q.** And where did this celebration take place?
- 4 A. It took place at the Elkridge Club.
- 5 **Q.** Is that a country club?
- 6 **A.** It is.
- 7 \mathbf{Q} . And a members-only type of country club?
- 8 **A.** Yes.
- 9 **Q.** If you can look at this photograph, do you see your son in
- 10 | it?
- 11 A. I do.
- 12 **Q.** Where is he?
- 13 A. Right in the middle.
- 14 **Q.** What is he doing? If you can see.
- 15 A. Well, I can't tell if there's anything in the glass, but
- 16 he's holding a glass over the Defendant's head.
- 17 **Q.** Okay. Please show Government's Exhibit 3.
- Do you recognize, without worrying about the text
- 19 underneath it, do you recognize the photograph there?
- 20 A. That is my son.
- 21 Q. At this point after 2016 your husband -- excuse me, I'm so
- 22 | sorry -- your son moved on to high school?
- 23 A. Yes.
- 24 **Q.** And he continued at Gilman at that point?
- 25 **A.** He did.

- 1 \mathbf{Q} . What sports did your son play in high school?
- 2 A. Primarily soccer in the fall and lacrosse in the spring.
- 3 **Q.** If we can bring up Government's Exhibit 4, please.
- 4 [[[[[[[[[[]]]]]]]]], like me, if you have your glasses ready, do
- 5 you see what's in front of you?
- 6 **A.** Yes.
- 7 \mathbf{Q} . And at the center is that your son in eighth grade year
- 8 2016?
- 9 **A.** Yes.
- 10 **Q.** And you recognize his ninth grade, 10th grade, 11th and
- 11 | 12th-grade photos.
- 12 **A.** Yes.
- 13 \mathbf{Q} . Are those all of the correct years that you recall him
- 14 | finishing those school years?
- 15 **A.** Yes.
- 16 | Q. When your son entered the high school, did his
- 17 | relationship with the Defendant Christopher Bendann continue?
- 18 **A.** It did.
- 19 **Q.** How do you know that?
- 20 **A.** Well, there was mention today about --
- 21 **Q.** Well, just tell me how you know it?
- 22 **A.** Oh, how I know?
- 23 **Q.** Yes.
- 24 A. I apologize.
- 25 **Q.** It's okay.

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Ι

- 1 | A. Well, the boys would get together for -- on Monday nights
- 2 | for wing night.
- 3 **Q.** Okay.
- 4 A. That was something that had been going on for years and I
- 5 think they were excited to be a part of that.
- 6 **Q.** And the Defendant would be present for that?
- 7 **A.** Yes. And oftentimes would pick some of the boys up.
- 8 Q. So that's how you would know? You would see him sometimes
- 9 pick up your son?
- 10 **A.** He would come into our driveway, yes.
- 11 | Q. And to your knowledge did or -- excuse me -- did the
- 12 Defendant ever babysit or house-sit for you or your family?
- 13 | A. So I -- and, again, I apologize. I don't recall a time
- 14 when he ever housesat when our son was home alone. And I say
- 15 | that because our two daughters also played Division I sports in
- 16 college, and so we spent a bit of our fall -- one played soccer
- 17 and the other played lacrosse -- and the spring traveling to
- 18 their games. This was the case actually with a lot of the
- 19 families of [[[[]]'s friend. They were the youngest sibling and
- 20 | the older ones were playing sports in college.
- 21 So the parents were in constant communication about where
- 22 | the Defendant was house-sitting or babysitting that weekend.
- 23 know that I reached -- oh, let me back up. So [[[[[]]]] was a
- 24 | senior when our son was a freshman.
- 25 **Q.** Senior in high school? I just want to be clear.

- 1 A. Thank you, yes, in high school.
- 2 **Q.** Okay.
- 3 **A.** So she went to college when our son was in 10th grade and
- 4 at that time he had his license. And we lived in on-campus
- 5 housing. So he was very comfortable to be on his own for -- it
- 6 was for 24 hours.
- 7 | Q. So you don't recall, as you sit here today, that the
- 8 Defendant ever housesat or babysat for your son at your home?
- 9 | A. I don't think -- I know that he might have helped with the
- 10 dogs. And I apologize. I honestly -- I know that the
- 11 Defendant and I would communicate. He would share weekly where
- 12 he was going to be in people's homes. And I said, "Great, if
- 13 | there's a problem with our son, can he reach out?"
- 14 "Absolutely."
- The Defendant would say "If he would like to spend the
- 16 | night with us that he is welcome to." And I said that I would
- 17 talk to my son about that but I just -- it would be great to
- 18 have someone on call.
- 19 **Q.** Another set of eyes?
- 20 **A.** Another set of eyes.
- 21 **Q.** Sure. And you mentioned this but your daughters played
- 22 college sports?
- 23 A. Yes.
- 24 | Q. Just, geographically, we'll let start with your daughter
- 25 [[[[[]]]]. Where did she go to college? What part of the

- 1 country?
- 2 A. Sure. She went to Yale University in New Haven,
- 3 | Connecticut.
- 4 **Q.** What about your daughter <code>[][][][]</code>?
- 5 A. 000000.
- 6 Q. Excuse me. You already said [[][]]. [[][]].
- 7 | A. That's okay. [[[[[]]]] went to Vanderbilt in Nashville,
- 8 Tennessee.
- 9 **Q.** Which one played which sports?
- 10 | A. IIIIIII the oldest played soccer at Yale and IIIIIII played
- 11 | lacrosse at Vanderbilt.
- 12 **Q.** You indicated that there were times as a sophomore and
- 13 older that your son had a license, and he would be home alone
- 14 | while you would go see the girls, is that fair?
- 15 A. Yes, but it would not be more than 24 hours and sometimes
- 16 | it would be a day trip.
- 17 **Q.** Okay. If we can bring up Government's Exhibit 5.
- 19 **A.** Yes.
- 20 **Q.** And whose handwriting -- you see handwriting in the middle
- 21 of it, whose handwriting is that?
- 22 A. That's mine.
- 23 **Q.** This shows a Southwest reservation or ticket to Nashville
- 24 on February 8, 2019; is that right?
- 25 A. (No response.)

- 1 **Q.** I just need you to say --
- 2 A. Yes. Sorry.
- 3 **Q.** That's okay.
- 4 Do you recall traveling to Nashville on that particular
- 5 | weekend, presumably to see your daughter?
- 6 **A.** Yes.
- 7 **Q.** Was it lacrosse season as of February?
- 8 **A.** Yes.
- 9 \mathbf{Q} . Who went with you on that trip?
- 10 A. My husband.
- 11 **Q.** Who was home in your house while you and your husband
- 12 | traveled to Nashville?
- 13 **A.** Our son.
- 14 Q. Your older daughter [[[[[]]], was she still up in
- 15 | Connecticut at school?
- 16 **A.** She was a senior in college.
- 17 **Q.** So he was home alone?
- 18 A. He was home alone.
- 19 **Q.** What was your address in February of 2019?
- 20 **A.** 78 -- 7815 Overbrook Road.
- 21 **Q.** And what city and state is that?
- 22 **A.** Baltimore County, Maryland.
- 23 **Q.** Would you see the Defendant during the workday while you
- 24 | were at Gilman?
- 25 A. Frequently.

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- 1 \mathbf{Q} . Would you ever speak to him now that your son was in high
- 2 | school about your son?
- 3 **A.** Yes.
- 4 | Q. Okay. What, if anything, did the Defendant ever
- 5 communicate to you about your son now that your son had moved
- 6 on to high school?
- 7 A. So the Defendant and my relationship grew significantly in
- 8 | high school because we did -- we completely changed the
- 9 admissions department into an enrollment department and the
- 10 Defendant had a more elevated role. So he was a middle school
- 11 admissions associate helping with the process for boys that
- 12 | were interested in the middle school. So it was not usual for
- 13 me. I was the director, oversaw the three divisions, but I
- 14 | went to each of the divisions, tried to every day, just to make
- 15 | sure that that all was running smoothly so I would bump into
- 16 the Defendant quite a bit.
- 17 | Q. Would he ever say anything to you about minor victim, your
- 18 | son?
- 19 **A.** Yes.
- 20 **Q.** And what do you recall about those conversations when you
- 21 | would kind of bump into it?
- 22 | A. There was a time when he said where's my son, "I've been
- 23 trying to reach him and he's not getting back to me."
- 24 $|\mathbf{Q}$. I just want to be clear, when you say "Where is my son,"
- 25 | you mean your son?

```
1
    Α.
         My son.
 2
         So he would say, where is minor victim --
    Q.
 3
         Thank you.
    Α.
 4
         -- "I've been trying to reach him?"
    Q.
 5
    Α.
         I just don't want to say my son's name.
 6
         I understand that, ma'am, so let's just call him minor
    Q.
 7
    victim, okay? We'll just call him that.
 8
         So I'll try to refrain from using his name and saying "my
 9
    son," we'll just call him minor victim.
         So he would say to you, "Where is minor victim"?
10
11
         I'm sorry, say that again.
    Α.
12
         It's all right.
    Q.
13
         I'm sorry.
    Α.
14
         It's okay. Take a minute.
    Q.
15
             THE COURT: Take a minute.
16
             MS. MCGUINN: You're okay. Take a minute. You've got
17
    it.
18
                         Do you have any water sitting there?
             THE COURT:
19
             THE WITNESS: I do need some water, please.
20
             MR. NIETO:
                         Your Honor.
21
             THE COURT:
                         Private channel.
22
         (Whereupon, the following conference was held at the
23
    bench:)
24
             THE COURT: Mr. Nieto.
25
             MR. NIETO:
                         Yes, Your Honor. We don't have any
```

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objections to the repeated use of the word "Defendant" in lieu
 1
 2
    of my client's name, but referring to [[[[[[[[[[[[[]] as minor
 3
    victim repeatedly, that goes directly to the issue at this
 4
    case. We're objecting to that as the name to be used.
 5
             THE COURT: Ms. McGuinn, is there some other term that
    we can use here that will quell any concern about repeated
 6
 7
    suggestion of victimization in a case where the Defendant is
 8
    otherwise enjoying the presumption of innocence and yet at the
 9
    same time not use the name [[[[]]?
                           I can refer to him by his initials DF.
10
             MS. MCGUINN:
    But he is listed as minor victim in the indictment.
11
12
             THE COURT: He is, indeed, but that doesn't preclude
13
    my conclusion that that can become prejudicial in its repeated
14
         And I am on the verge of such a conclusion. Why don't we
    steer around it. How about his formal initials?
15
16
             MS. MCGUINN:
                           That's fine.
17
             THE COURT: Don't even use the letter []. Again, his
18
    first name, his given name is [[[[]]?
19
             MS. MCGUINN: Yes, sir.
             THE COURT: And then he has two middle names?
20
21
             MS. MCGUINN:
                           I can just do [][.
22
             THE COURT: [][]. Let's try that.
23
             MS. MCGUINN: Yes, sir.
24
             THE COURT: Very good. Thank you.
25
         (Whereupon, the bench conference was concluded.)
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THE COURT: Going forward, counsel have agreed perhaps
the best way to refer to your son is by his initials, [][]. How
would that be?
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THE WITNESS: Sure. Thank you.

THE COURT: We'll see if we can use that terminology.

MS. MCGUINN: Yes.

THE COURT: Ms. McGuinn, you may continue.

MS. MCGUINN: Thank you, Your Honor.

9 BY MS. MCGUINN:

- 11 | when you had talked about bumping into the Defendant during the
- 12 | workday?

4

5

6

7

8

- 13 A. Yes, frequently.
- 14 Q. Were there times when the Defendant would ask you about
- 15 | 00000?
- 16 **A.** Yes.
- 17 **Q.** What do you recall the nature of those conversations or
- 18 | what would he ask you about?
- 19 A. He would ask how [[[[]] was doing, that he had tried to
- 20 | reach him and he wasn't responding.
- 21 **Q.** Okay. And your son finished Gilman or graduated Gilman in
- 22 | 2020?
- 23 A. Yes.
- 24 **Q.** For those of us who don't recall, that was COVID year; is
- 25 | that right?

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- 1 **A.** Yes.
- 2 **Q.** So is it fair to say his graduation and the plans that
- 3 | traditionally lead into a graduation were a little bit
- 4 different that year?
- 5 **A.** Yes.
- 6 Q. Online school, that sort of thing bring back bad memories
- 7 | for all of us; is that right?
- 8 **A.** Yes.
- 9 **Q.** Okay. And at the conclusion of high school, did your son
- 10 attend college?
- 11 A. He did.
- 12 **Q.** Where did [[[]] attend college?
- 13 A. And is that okay to share?
- 14 **Q.** Yes, it is, ma'am?
- 15 A. He went to [[[[]]]][[[]][[]][[]][].
- 16 Q. Okay. When [][] attended [][][][], did he get to campus
- 17 in the fall of 2020?
- 18 **A.** He did.
- 19 Q. Even though it was COVID, did he still go to campus anyway
- 20 even in the midst of online school or not online school, that
- 21 | sort of thing?
- 22 A. Yes, he was on campus.
- 23 **Q.** To your knowledge, did the Defendant maintain contact with
- 24 []]]?
- MR. NIETO: Objection, Your Honor. Basis of that

```
knowledge.
```

1

- THE COURT: Fair enough. Sustained. Lay some
- 3 additional foundation.
- 4 MS. MCGUINN: Thank you.

5 BY MS. MCGUINN:

- 6 **Q.** Did you continue to speak with the Defendant while [[[[]]
- 7 was away at school and you would see him in the workday?
- 8 **A.** Yes.
- 9 **Q.** And would he speak to you ever about [[[[]?
- 10 A. He missed him, and he hadn't heard from him.
- And I did not share that in high school when he -- when
- 12 | the Defendant was asking me that he wasn't returning his
- 13 | messages or calls, whatever it was, I went home that evening
- 14 and berated [[[]] because he was being so disrespectfully to a
- 15 | teacher who had given so much of his time and love to him.
- 16 **Q.** Okay.
- 17 A. And so I know in college they kept in touch. It's not --
- 18 I know that, and particularly when [[[[]] would come home for
- 19 holidays, a holiday did not pass when [][] did not see the
- 20 | Defendant.
- 21 **Q.** Okay. In the summer of 2022, after [[]] 's sophomore year,
- 22 | did he travel that summer for purposes of school?
- 23 **A.** He did.
- 24 **Q.** Do you recall where he went?
- 25 A. He went to the London School of Economics.

- 1 **Q.** Do you know a person by the name of Riley Seelert.
- 2 **A.** Yes.
- 3 $| \mathbf{Q}_{\cdot} |$ And for purposes of the record I'm going to spell that
- 4 R-I-L-E-Y-S-E-E-L-E-R-T. It's an usual spelling and
- 5 pronunciation.
- 6 Did I say that right, Seelert?
- 7 **A.** Yes, you did.
- 8 **0.** Who is she?
- 9 A. She is IIIIII girlfriend.
- 10 **Q.** By that summer of 2022, after sophomore year, were they
- 11 | actually dating?
- 12 **A.** Yes.
- 13 **Q.** Had you met her prior to that summer?
- 14 **A.** Yes.
- 15 **Q.** Did she come visit you, your family, at your home in
- 16 | Baltimore prior to [[[]] going to London?
- 17 **A.** Yes.
- 18 **Q.** Would she stay in your home?
- 19 **A.** Yes.
- 20 **Q.** Do you know if she, Ms. Seelert, went with [[[]] to London?
- 21 A. She did.
- 22 **Q.** To your knowledge, when [[[]] was in London, did something
- 23 happen to his phone?
- 24 A. Yes. The first day he arrived he and his girlfriend were
- 25 | so exited to have lunch at a little --

```
MR. NIETO:
                        Objection, Your Honor.
 1
 2
            THE COURT:
                        Basis?
 3
            MR. NIETO: Basis of knowledge, hearsay.
 4
            THE COURT: I'm not sure we're at hearsay yet.
 5
   think we've got a foundational issue. So let's develop that a
 6
   little bit more. Sustained. But you may continue.
 7
            MS. MCGUINN: Thank you.
   BY MS. MCGUINN:
 8
 9
        son's phone?
10
11
        It was stolen.
   Α.
12
        Was that communicated to you as his parent?
   Q.
13
        Oh, yes.
   Α.
14
        In trying to get a new phone?
   Q.
15
   Α.
        Yes.
16
            MR. NIETO:
                       Objection, Your Honor.
                        Private channel.
17
            THE COURT:
        (Whereupon, the following conference was held at the
18
19
   bench:)
                       Your objection.
20
            THE COURT:
21
            MR. NIETO:
                       Your Honor, the witness is testifying
22
   about things for which she does not have firsthand knowledge.
23
   It's being offered for the truth of the matter.
24
            THE COURT: Well, I haven't heard any explicit
25
   hearsay. I think the problem is still a foundational one.
                                                             Ιt
```

```
might be that the only foundation she's got is hearsay, but I
 1
 2
    haven't heard it yet. The problem is still one of insufficient
 3
    foundation. How does she know that the phone was stolen? The
 4
    problem, I imagine, is that the answer to that question is
 5
    somebody told her that and that's hearsay. So how are we going
    to get around that?
 6
 7
             MS. MCGUINN: So I would say it goes to affect on
    hearer as to what action she took as his parent learning that
 8
 9
    her son's phone was stolen to try to help him get a new phone.
10
    Moreover, Your Honor --
11
             THE COURT: Did you come to understand or believe that
12
    the phone had been stolen? That's what you -- that's
13
    effectively what you want to do to avoid the hearsay, but the
14
    problem is how do -- we still get to the point of how she knew.
    How did she know?
15
16
             MS. MCGUINN:
                           Sure. But I don't know her basis of
17
    knowledge being hearsay, again, it goes to affect on hearer and
    what she did as a result or knew as a result.
18
19
             THE COURT: Where is the testimony going because she
20
    can operate on the basis of a belief that the telephone was
21
    stolen. She did some things, apparently.
22
             MS. MCGUINN:
                           Sure.
23
             THE COURT: You can ask her: What did you do?
                                                             I did
24
    X, Y -- I went to the Verizon store and ordered a new
```

telephone. Why did you do that? I did it under the belief

25

```
1 | that my son's phone had been stolen in.
```

- 2 MS. MCGUINN: Okay.
- THE COURT: I mean, you know, sometimes the rules are arcane but you're going to have to navigate them.
- 5 MS. MCGUINN: Yes, sir.
- 6 (Whereupon, the bench conference was concluded.)

7 BY MS. MCGUINN:

- 8 Q. IIIIIIIIII, did there come a point that summer in 2022
- 9 | that you traveled to London also?
- 10 **A.** Yes.
- 11 **Q.** And who went with you?
- 12 A. My husband.
- 13 **Q.** And while in London, did you see [[[[]?
- 14 A. We did.
- 15 \mathbf{Q} . And was there a specific plan as to when you would see
- 16 | [] [] and what, if anything, would occur?
- 17 A. Yes. So we arrived the last week of his experience and
- 18 | tried to schedule different things each day, if he was able to
- 19 join, he and Riley, they were welcome. The last day, actually
- 20 | I received a strong recommendation from the Defendant about a
- 21 place to have afternoon tea.
- 22 **Q.** As you sit here today can you remember the name of the
- 23 place that you went?
- 24 A. I can. Fortnum & Mason.
- 25 **Q.** And did you, in fact, execute that plan to go there?

- $1 \mid A$. We did.
- 2 **Q.** And who went or attended that tea in London?
- 3 **A.** Sure. It was [[[]], his girlfriend, my husband and I.
- 4 | Q. How would you describe that outing?
- 5 | A. Well, I had been looking forward to it. I was hoping that
- 6 everyone else was. We arrived -- my husband and I arrived
- 7 | first. We had offered to pick up [[]] and his girlfriend, but
- 8 | they wanted to meet us there. They arrived late. [[[[]]] was
- 9 | pretty adamant about not putting his blazer on. It was almost
- 10 like he was angry. He was mad.
- 11 **Q.** Is that how you would describe his demeanor?
- 12 A. Uh-huh. And I didn't know why.
- 13 **Q.** Okay. Did you have an opportunity to observe Riley's
- 14 | demeanor?
- 15 A. So she was trying to make up for his lack of
- 16 | communication, distancing himself from us, yes.
- 17 **Q.** Did you make any purchases while at that tea for anyone in
- 18 particular?
- 19 **A.** Yes.
- 20 **Q.** What did you buy?
- 21 A. I bought some of the jams. The Defendant is the person
- 22 | who recommended that we do this for a special night, which we
- 23 did on the last night of the program. And I thought it would
- 24 be a nice gesture to buy him some of the jams that he -- he
- 25 | shared with me his favorite flavors.

- 1 | Q. Just for those of us who maybe haven't been to London or
- 2 this place, are those jams somehow well-known or popular?
- 3 **A.** Yes, yes.
- 4 **Q.** Directing your attention to January of 2023, did there
- 5 come a point in mid-January when you, as an employee of Gilman,
- 6 | learned that there was a change in the Defendant's employment
- 7 | at Gilman?
- 8 **A.** Yes.
- 9 **Q.** At the time, initially, were you aware if it had anything
- 10 to do with your son?
- 11 A. No idea.
- 12 **Q.** What was your initial reaction when the suspension
- 13 | occurred?
- 14 A. I was heartbroken for the Defendant and wanted to go see
- 15 him or make sure that someone was keeping an eye on him for
- 16 | fear of him doing something to himself.
- 17 **Q.** At the end of that week did the Defendant's status at
- 18 | Gilman change again?
- 19 **A.** It did.
- 20 **Q.** And based on that, did you and your husband go anywhere?
- 21 **A.** We did.
- 22 **Q.** Where did you go?
- 23 A. We went to IIII.'s college campus.
- 24 **Q.** And just for those who may not know where [[[[[[[[]]]]]]] is,
- 25 approximately how far of a drive is that from Baltimore?

- 1 A. Two hours and 15 minutes.
- 2 **Q.** Did you, in fact, go to see [[[]]?
- 3 **A.** Yes.
- 4 | Q. Who specifically went and saw him?
- 5 A. So both my husband and I went. And then I stayed in the
- 6 | hotel, and my husband and [[[]] went to dinner at Panera.
- 7 \mathbf{Q} . How long was your husband gone, if you can recall,
- 8 | approximately?
- 9 A. A few hours. At least three hours.
- 10 | Q. When he returned, did you have a conversation with your
- 11 | husband about what occurred at dinnertime?
- 12 **A.** Yes.
- 13 **Q.** And were you upset or were you upset based on what he told
- 14 | you?
- 15 MR. NIETO: Objection, Your Honor.
- 16 THE COURT: Overruled. You may answer. Were you
- 17 upset?
- 18 **THE WITNESS:** Extremely.
- 19 **THE COURT:** Next question.
- 20 BY MS. MCGUINN:
- 21 **Q.** Did you call anyone?
- 22 **A.** I did.
- 23 **Q.** Who did you call?
- 24 A. I called Steve Silverman. It was 10:30 at night. He is
- 25 an attorney by trade. I grew up with a father who is an

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- 1 attorney, and I've always seeked counsel, my brothers and I,
- 2 | that's who we turn to. We were in crisis mode.
- 3 **Q.** Yes, ma'am. And as to Steve Silverman's trade, do you
- 4 | know him in a different way?
- 5 **A.** Oh, yes. We went through grade school all the way through
- 6 high school and on to college together.
- 7 | Q. After you spoke with him, to your knowledge, did [[[[]]]
- 8 | return to Baltimore a week later?
- 9 **A.** Yes.
- 10 \mathbf{Q} . And do you recall \mathbf{Q} meeting with investigators involved
- 11 | in this investigation?
- 12 **A.** Yes.
- 13 **Q.** Do you recall investigators actually coming to your home
- 14 on Overbrook Road?
- 15 **A.** Yes.
- 16 $| \mathbf{Q}$. We can bring up Government's Exhibit 6, please. I'm
- 17 directing you to that, if you need your glasses.
- Do you recognize what Government's Exhibit 6 is?
- 19 **A.** Yes.
- 20 **Q.** What is that?
- 21 A. That is a bathroom in our home, a shower.
- 22 **Q.** Just to orient the ladies and gentlemen of the jury,
- 23 primarily who used this particular bathroom in our home?
- 24 A. Our daughters, [[[[[[]]] and [[[[]]]].
- 25 **Q.** If we could go to Government's Exhibit 7, please.

```
And this image, do you recall this image being taken by
 1
 2
   law enforcement?
 3
        Yes.
   Α.
 4
        And what is this?
   Q.
 5
   Α.
        The same shower.
 6
        When investigators came to your home and took these
   Q.
 7
   photographs of your shower, what, if any, affect did that have
   on your living in that home?
 8
 9
        After they left -- they were incredible. And when they
   left my husband turned to me and said, "It's time to move."
10
11
            MR. NIETO:
                        Objection, Your Honor.
12
            THE COURT:
                       Not offered for the truth of the matter
13
   asserted, if that's a hearsay objection. Overruled. You may
14
   continue.
   BY MS. MCGUINN:
15
        After he said that did you, in fact, move to a different
16
17
   location?
18
        We did. We put our house on the market and moved.
19
            MS. MCGUINN: Court's indulgence, Your Honor.
20
        21
            THE COURT:
                        Private channel.
22
        (Whereupon, the following conference was held at the
23
   bench:)
```

10:54.

Becca, what time did we finally start?

24

25

THE COURT:

THE CLERK:

```
Cross of MS. XXX by Nieto Case 1:23-cr-00278-JKB Document 235 Filed 06/05/25
                                                     Page 74 of 298
             THE COURT:
                         How long for your cross do you think?
 1
 2
             MR. NIETO:
                         Five minutes maybe.
 3
             THE COURT: Great. You may proceed.
         (Whereupon, the bench conference was concluded.)
 4
 5
             THE COURT: Cross-examination.
                           CROSS-EXAMINATION
 6
    BY MR. NIETO:
 7
         8
    0.
         I do not.
   Α.
         You're still listed on the website as the director of
10
    Q.
11
    enrollment, did you know that?
12
         I did not.
    Α.
13
         When did you stop working at Gilman?
    0.
14
         July 31st, 2023.
    Α.
15
    Q.
         Your husband works there though, correct?
         Yes.
16
    Α.
17
         And during your role there in the director of enrollment,
    Q.
    you had actually asked Mr. Bendann to become a member of the
    admission committee?
```

- 18
- 19
- 20 Α. Yes.
- 21 Q. You had worked with him, emailed with him throughout that
- 22 time of his employ?
- 23 Α. Often.
- 24 In addition to working there, you and your family actually
- 25 lived on campus for some time?

- 1 **A.** Yes.
- 2 **Q.** 2014 until maybe October of 2018?
- 3 A. Correct.
- 4 **Q.** And that was during the time in which your son was
- 5 enrolled as a student there as well?
- 6 **A.** Yes.
- $7 \mid \mathbf{Q}$. Now, tuition at Gilman, I'm assuming both professionally
- 8 and personally, is expensive at this school, right? Is that a
- 9 "yes" ma'am?
- 10 A. Yes. I'm sorry. Yes.
- 11 **Q.** You're all right.
- 12 And of course the school has a great reputation, does it
- 13 | not?
- 14 **A.** Yes.
- 15 \mathbf{Q} . Yes, it does. And money is, arguably, very well spent,
- 16 | right?
- 17 **A.** Yes.
- 18 **Q.** In fact, the Gilman community has networking events for
- 19 students and recent graduates to help everyone as they move
- 20 forward in life, right?
- 21 **A.** Yes.
- 22 **Q.** And that is one of the values to a community such as that,
- 23 | correct?
- 24 **A.** Yes.
- 25 **Q.** The Gilman helping Gilman to say for lack of a better

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1 | phrase?

- 2 **A.** Yes.
- 3 **Q.** Yes, ma'am. Now, as part of the teachers' roles at this
- 4 | school, you had indicated that sometimes it can be a trifecta
- 5 of roles, right?
- 6 **A.** Yes.
- 7 \mathbf{Q} . In terms of teaching, mentoring, and coaching?
- 8 **A.** Yes.
- 9 **Q.** And that was expected of all of the teachers?
- 10 A. In the middle and Upper School. Lower School teachers, it
- 11 | was full time.
- 12 **Q.** Yeah, exactly.
- 13 A. Sorry.
- 14 **Q.** But for middle school and high school?
- 15 **A.** Yes.
- 16 **Q.** Also, additionally, the report cards that you would
- 17 receive for your son, they were fairly detailed; is that fair
- 18 to say?
- 19 **A.** Yes.
- 20 **Q.** Each teacher would write almost a paragraph or some
- 21 | commentary specific to the student, right?
- 22 **A.** Yes.
- 23 Q. And that of course is helpful to the parents because it
- 24 allows them to see how each student is doing or how their son
- 25 is doing in class?

- 1 **A.** Yes.
- 2 **Q.** Now, your son's grades throughout his time in Gilman were
- 3 | all As and Bs, weren't they?
- 4 **A.** Yes.
- $5 \, | \, \mathbf{Q}$. And in high school he was in honors program or honors
- 6 classes?
- 7 **A.** Yes.
- 8 0. He took some AP classes as well?
- 9 **A.** Yes.
- 10 **Q.** It's been awhile, but AP classes can sometimes transition
- 11 | into college credits, right?
- 12 **A.** Yes.
- 13 **Q.** It's the highest level of education in terms of a class
- 14 | that one could receive in the high school capacity?
- 15 A. Or an IB. That would be another example.
- 16 **Q.** Yes, one of the highest?
- 17 A. Sure. Yes.
- 18 | Q. Now, when your son -- I'm sorry for my lack of vocabulary,
- 19 he wasn't held back --
- THE COURT: One second. Did you say you couldn't
- 21 hear? One second. Are we clear?
- 22 MR. NIETO: Am I all right, Your Honor?
- 23 | THE COURT: Private channel.
- 24 (Whereupon, the following conference was held at the
- 25 bench:)

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THE COURT:
                        Mr. Nieto, do you feel that you're
 1
   constrained by a convention that would expect you to refer to
   the victim in this case by his initials of <code>[]][]</code> rather than his
   nickname of [[[]]?
            MR. NIETO:
                       Forgive me, Your Honor, did I say [[[]]?
            THE COURT:
                        Well, I didn't hear it, but I think the
   witness thinks she may have so I'm just trying to clear that
 8
   up.
        My preference would be that we all subscribe to that
   convention.
                Is that acceptable to you?
11
            MR. NIETO: Your Honor, I have -- forgive me, I have
12
   no intention of being so informal. It was our approach that we
   my opening, but if the Court at least for this witness prefers
15
   the <code>[]]]</code> nomenclature I'm happy to --
16
            THE COURT:
                        I do. I'm not going to order you to do it
17
   because I think you have to have some freedom to run the
18
   defense as you think best; but if this is not inconsistent with
19
   your other objectives and if you're able to remember that
20
   convention that would be preferrable.
21
            MR. NIETO:
                        Absolutely, Your Honor.
22
            THE COURT:
                        Okay.
                               Thank you.
23
         (Whereupon, the following conference was held at the
24
   bench:)
            THE COURT: I think we need to restate the last
```

- 1 question so we can get back on track. Mr. Nieto, you may reask
- 2 your question again.
- 3 BY MR. NIETO:
- 4 $| \mathbf{Q}$. Forgive me, your son $| \mathbf{Q} | \mathbf{Q} | \mathbf{Q}$ repeated the seventh grade?
- 5 **A.** Yes.
- 6 \mathbf{Q} . You used a certain word for it, forgive me, what was that?
- 7 A. It's either repeat or reclassify.
- 8 **Q.** Reclassify. Now, he reclassified at Calvert School; is
- 9 | that correct?
- 10 A. Correct.
- 11 | Q. Why didn't he reclassify at Gilman?
- 12 A. Because technically they're not supposed to. Gilman
- 13 doesn't have a program in place where you could have another
- 14 seventh grade experience that's very different than the seventh
- 15 grade experience you just had.
- 16 Q. Oh, I see. The idea was for a different seventh grade
- 17 | experience?
- 18 **A.** Yes.
- 19 **Q.** Oh, all right. Okay. So it makes sense to go to another
- 20 qualified but different school to reclassify and then return
- 21 back to the Gilman community?
- 22 **A.** Yes.
- 23 **Q.** Now, when [[[[]]] was under the age of 18, he did have a
- 24 curfew, did he not?
- 25 **A.** Yes.

- 1 **Q.** Now, as a member of the Gilman community, you must have
- 2 | spent time both professionally and personally socializing with
- 3 other parents and families within that community?
- 4 **A.** Yes.
- 5 **Q.** Any of these social get togethers involving parents and
- 6 children of students alike?
- 7 **A.** Yes.
- 8 **Q.** So it wasn't necessarily taboo for parents and for the
- 9 | students to enjoy alcohol responsibly together; is that fair to
- 10 | say?
- 11 **A.** Yes.
- 12 **Q.** So it wasn't inappropriate for [[]] to consume alcohol
- 13 under the age of 21?
- 14 A. I'm sorry, your question?
- 15 **Q.** Absolutely. It wasn't unreasonable for [[[[]] to drink
- 16 | alcohol under the age of 21?
- 17 THE COURT: Answer if you're able.
- 18 **THE WITNESS:** I'm sorry. So when you're saying
- 19 | unreasonable --
- THE COURT: Stop. The question has an ambiguity to
- 21 it. Unreasonable by what standard? Unreasonable to who?
- 22 Please clarify.
- 23 MR. NIETO: Absolutely.
- THE COURT: You may rephrase.
- MR. NIETO: Forgive me.

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1 BY MR. NIETO:

- 2 **Q.** IIII was allowed to drink at home?
- 3 **A.** Yes.
- 4 \mathbf{Q} . He was allowed to drink with family, correct?
- 5 **A.** Yes.
- 6 Q. And if [[[]] had friends over, they would be able to drink
- 7 | alcohol together at your home?
- 8 **A.** Yes.
- 9 **Q.** In fact, you had provided a photo to the Government
- 10 depicting just such an incident, correct?
- 11 | A. Yes. I don't -- I don't know the photo.
- 12 $| \mathbf{Q}$. All right. If I may show you then -- if I may just show
- 13 | you what's marked as Defendant's Exhibit 1.
- 14 You can see the photo, [[[[[[[[]]]]]]]?
- 15 **A.** Yes.
- 16 **Q.** This is a photo you provided to the Government prior to
- 17 trial, correct?
- 18 **A.** Yes.
- 19 **Q.** And this is a photo from December of 2020; is that true?
- 20 A. It may be.
- 21 | Q. Would looking at -- would looking at something -- would
- 22 | looking at a text message that you shared with the
- 23 investigators help refresh your recollection?
- 24 A. Sure. I'm sorry.
- 25 | Q. That's all right. Would it surprise you that this was

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1 from December of 2020?

- **A.** No.
- **Q.** Okay. And so in December of 2020, how old was [[[]]?
- 4 A. Nineteen.
- **Q.** Nineteen. All right. And in this particular photo, with
- 6 the exception of the gentleman with the gray hair and the other
- 7 | gentleman standing, the other three that are around the table,
- 8 do you know who they are?
- **A.** I do.
- **Q.** Are those Gilman students?
- **A.** No.
- **Q.** Are they family?
- **A.** Yes.
- **Q.** Any of them under the age of 21?
- **A.** No.
- **Q.** No. All right. But [[[[]] is in this photo, correct?
- **A.** Yes.
- **Q.** And in front of him we can see, I think, approximately one
- 19 | bottle and three cans?
- **A.** Yes.
- **Q.** I can show you what's been also marked as Defendant's
- 22 Exhibit 2. This is a photo of [[]], correct, ma'am?
- **A.** Yes.
- **Q.** Now, this is a photo from May 19th of 2022?
- **A.** I guess so. I -- 2022. I know where it was and why we

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```
1 were there. Does that help?
```

- 2 **Q.** Again, I'm sort of referencing the -- this portion of the
- 3 | exhibit.
- 4 **A.** Sorry. I need to wear my glasses.
- 5 Q. That's all right. It's all right. That's why I was
- 6 asking. This is a photo taken in May 19th of 2022, correct?
- 7 **A.** At 11:27 p.m.
- 8 Q. Yes, ma'am. All right. And so he would be 21 in this
- 9 photo, yes?
- 10 **A.** Yes.
- 11 **Q.** All right. So he had been over the age of 18 for three
- 12 | years by the time this photo was taken?
- 13 **A.** Yes.
- 14 **Q.** Thank you, ma'am. Nothing further.
- 15 | THE COURT: Redirect?
- 16 MS. MCGUINN: No questions, Your Honor.
- 17 | THE COURT: May the witness be excused, ma'am?
- 18 MS. MCGUINN: From the Government, yes, Your Honor.
- 19 THE COURT: Mr. Nieto, may the witness be excused?
- 20 MR. NIETO: Yes, Your Honor.
- 21 | THE COURT: Ma'am, you're excused. You're free to
- 22 | leave or remain as you wish.
- 23 **THE WITNESS:** Thank you.
- 24 | THE COURT: Next witness.
- 25 MS. HAGAN: Your Honor, the Government's next witness

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is 0000000000000.
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3 All the way to the front of the courtroom. When you arrive at

the witness box, please stop there, turn to your left, face our

clerk, and raise your right hand.

(Witness sworn.)

7 THE CLERK: Thank you, sir. You may be seated. And

8 for the record, sir, making sure to speak directly into that

microphone, can you please state and spell your first and last

10 name.

1

4

5

6

9

12

13

THE COURT: Your witness, ma'am.

DIRECT EXAMINATION

14 BY MS. HAGAN:

- 16 A. Good afternoon.
- 17 **Q.** [[[[[[[[[]]]]]], I'm going to ask you to keep your voice up
- 18 and speak directly into the microphone so I can hear you all
- 19 | the way back here, okay?
- 20 **A.** Okay.
- 21 **Q.** How old are you, [][[][[][]]?
- 22 A. Fifty-eight.
- 23 **Q.** And in what town do you reside?
- 24 A. In Towson.
- 25 \mathbf{Q} . How long have you resided in the state of Maryland?

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- 1 A. Since 1991.
- 2 **Q.** How are you currently employed?
- 3 **A.** I work as the director of finance and operations at Gilman
- 4 | School, and I'm a professor at Johns Hopkins.
- 5 **Q.** Let me ask you about your job at Johns Hopkins first.
- 6 What subject do you teach as a professor at Johns Hopkins?
- 7 **A.** Sure. I've taught financial and managerial accounting.
- 8 **Q.** Financial and managerial accounting?
- 9 **A.** Yes.
- 10 **Q.** How long have you been a professor with Johns Hopkins?
- 11 A. Ten years. Over 10 years.
- 12 **Q.** Is that a part-time or full-time position?
- 13 A. It's called an adjunct position so part-time at night.
- 14 Q. And how long have you been the director of finance for the
- 15 | Gilman School?
- 16 A. Twenty-one years.
- 17 **Q.** And you're currently still the director of finance?
- 18 **A.** I am, yes.
- 19 **Q.** What are your responsibilities as the director of finance
- 20 | at the Gilman School?
- 21 **A.** Sure. So all financial aspects, budgeting and forecasting
- 22 and then responsibility for operations. So the bookstore, the
- 23 facilities. Basically everything nonteaching.
- 24 **Q.** And is that a full-time position?
- 25 A. That is.

- 1 **Q.** Do you maintain an offense at the Gilman School?
- 2 **A.** I do.
- 3 **Q.** Where, physically, is your office located?
- 4 A. It's in a building called Carey Hall, which is the main
- 5 building where Upper School students have classes and a lot of
- 6 administration have their offices.
- 7 **Q.** And by Upper School, those are the high school grades?
- 8 A. Yes. Nine through 12.
- 9 **Q.** Okay. I'm going to show you Government's Exhibit 13. You
- 10 can just look at the screen.
- 11 Do you recognize what's depicted in Government's
- 12 | Exhibit 13?
- 13 **A.** I do.
- 14 Q. And do you see the Carey building that you described where
- 15 your office is and where the upper-class students attend?
- 16 A. I do.
- 17 **Q.** And hoping that this works, if you can circle on the
- 18 | screen where that building is located?
- 19 **A.** See the little green.
- 20 **Q.** Okay. That main one, I see a little bit.
- 21 **A.** Yep.
- 22 Q. If you can try to just do the circle one more time.
- 23 A. (Witness complies.)
- 24 **Q.** There you go. In Government's Exhibit 13, [[[[[[[[]]]]]]], is
- 25 the building where the middle school classes are held; is that

1 depicted?

- 2 A. Yes, it is.
- 3 **Q.** Are you able to circle that?
- 4 **A.** I am.
- 5 **Q.** Can you do that, please?
- 6 A. (Witness complies.)
- 7 **Q.** So the Carey building contains both some administrative
- 8 offices such as yours as well as the upper-class high school
- 9 classes; is that right?
- 10 A. Correct.
- 11 \mathbf{Q} . And then the building on the right that you circled,
- 12 | that's where the middle school classes --
- 13 A. Right. There's a little building behind Carey Hall called
- 14 | the Science Building and that's where some Upper School
- 15 | students take their science classes.
- 16 **Q.** Among the offices that are located in the Carey building
- 17 | with you, would that be the head of the school?
- 18 **A.** Yes.
- 19 **Q.** Is that the proper term?
- 20 **A.** Yes.
- 21 **Q.** Is that almost like what we would know as a principal?
- 22 **A.** Exactly.
- 23 **Q.** And what is the role of the head of school at Gilman?
- 24 A. To run the school.
- 25 **Q.** And how much do you work as the director of finance with

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- 1 | the head of school?
- 2 A. Pretty much -- a lot. He has maybe 10 direct reports and
- 3 I'm one of them.
- 4 **Q.** And any other activities that you take on as an employee
- 5 of Gilman, other than director of finance?
- 6 A. Sure. So I've been an advisor, and I've been a teacher of
- 7 a business class in high school.
- 8 | Q. How long have you been --
- 9 A. Oh, I run the business club, too, sorry.
- 10 **Q.** How long have you been a teacher?
- 11 **A.** I had taught maybe five years.
- 12 **Q.** And how long have you been an advisor?
- 13 A. I haven't been in the last two years, but prior to that I
- 14 had been an advisor for eight years, I think.
- 15 **Q.** And you indicated that you run the business club?
- 16 A. Right. Every club needs to have a faculty advisor, and I
- 17 was that advisor for that club.
- 18 **0.** And that is a club for students at Gilman?
- 19 A. Students of -- Upper School students interested in
- 20 business.
- 21 **Q.** Okay. How much day-to-day contact with teachers do you
- 22 | have in your role at Gilman?
- 23 **A.** Not a lot.
- 24 **Q.** Do you know Christopher Bendann?
- 25 A. I do.

- 1 **Q.** How do you know him?
- 2 **A.** He's taught there a long time, and in the course of my
- 3 experience at Gilman I've tried to get to know as many teachers
- 4 as I can, even though I don't work with them. I've also given
- 5 presentations to teachers at various times on helping save for
- 6 retirement or explaining health benefits. So those are my main
- 7 | interactions that I had with folks.
- 8 **Q.** Is it fair to say that your primary interactions with
- 9 Mr. Bendann were in school or school-related?
- 10 A. Yeah, a hundred percent.
- 11 **Q.** When do you recall first meeting Mr. Bendann?
- 12 **A.** Probably a couple of years after I got there, I think.
- 13 Yeah, I'm not sure specifically when Chris -- the Defendant --
- 14 | joined, but I think it was in the 2000s that I probably met the
- 15 | Defendant.
- 16 **Q.** Did there come a point in time where you knew or learned
- 17 | that he had a rapport with other families at Gilman?
- 18 A. Yes, that seemed to be going on a lot in the late 2000s, I
- 19 | think.
- 20 **Q.** And, [[[[[[[[[[]]]]]]]]], your son is [[[[[[[[[[]]]]]]]]]]?
- 21 **A.** Yes.
- 22 **Q.** Also known as [[[[[]]?
- 23 A. Yes.
- 24 **Q.** And he attended the Gilman School?
- 25 **A.** He did.

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- 1 | Q. And can you recall the grades that your son attended
- 2 | Gilman?
- 3 **A.** Yeah. He attended K through 12 as mentioned. He left in
- 4 | the seventh grade to go to another grade because he was very,
- 5 | very young in his class.
- 6 **Q.** And where did he then resume eighth grade?
- 7 A. Back at Gilman.
- 8 **Q.** And what, if any, changes or challenges did you observe
- 9 | with respect to your son's social aspect at Gilman once he
- 10 returned as an eighth grader?
- 11 **A.** Yeah, he was very sad and very distant. I think having
- 12 his friends go up a grade and then him staying back really
- 13 affected him. He missed those friendships. He had always
- 14 played sports with them and so I think that was a very hard
- 15 adjustment.
- 16 **Q.** Okay. Did your son have his own cell phone while a
- 17 | student at Gilman?
- 18 **A.** He did.
- 19 **Q.** Do you recall what grade he was first permitted to have
- 20 his own phone?
- 21 A. Probably in the middle school. I can't remember specific
- 22 grade but maybe seventh grade, maybe eighth grade. Could have
- 23 | been --
- 24 **Q.** Do you remember the cell phone number that was associated
- 25 | with your son when he first got his cell phone?

- 1 A. It's the same one today. And I'm an accountant but I'm
- 2 | not great with phone numbers.
- 3 **Q.** Does it end in 0307?
- 4 **A.** Yeah, 410.
- 5 THE COURT: Let's stop there. Next question.
- 6 BY MS. HAGAN:
- 7 **Q.** Who was the cell phone provider for that phone?
- 8 A. Verizon.
- 9 **Q.** Was it on your plan?
- 10 **A.** Yes.
- 11 **Q.** Has it been on your plan the entire time?
- 12 **A.** Yes.
- 13 **Q.** Have you always had Verizon?
- 14 | A. No, we switched to T-Mobile at one point and then switched
- 15 | back to Verizon.
- 16 **Q.** What year, [[[[[[[[]]]]]], did your son graduate from the
- 17 | Gilman School?
- 18 **A.** 2020.
- 19 **Q.** Where did he attend college?
- 21 **Q.** Did he play any sports for his college team?
- 22 **A.** He did. He played [[[[[[[]]] for [[[[[]]]]]]].
- 23 **Q.** Is that a Division I?
- 24 A. That is a Division I.
- 25 **Q.** From your own observations, tell us what you observed of

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- 1 | IIIII 's -- your son's attitude as he was starting college?
- 2 A. Yeah, I think it was -- it was hard because it was COVID
- 3 | so this was the COVID generation. They lost high school
- 4 graduation, they lost their proms, they lost a lot of things.
- 5 | So I think it was kind of a challenging period because classes
- 6 were online, and he was in a dorm, and, you know, he's lucky to
- 7 be in college, but still that was hard, I think.
- 8 Q. So he still physically went to the campus for his freshman
- 9 | year?
- 10 A. He did. And then he -- I think it -- I can't remember
- 11 | specifically, I think there were times when they came home too.
- 12 **Q.** Okay. Would that have been August of 2020 that he started
- 13 as a freshman at [[[[[[]]]]]?
- 14 **A.** Yes, yes.
- 15 \mathbf{Q} . I'm going to direct your attention to January of 2023.
- 16 What year was your son in college in January of 2023?
- 17 A. So he was a junior.
- 18 Q. And I'm going to specifically direct your attention, III
- 19 [[[[[[]], to Friday, January 20th, 2023. Do you recall whether
- 20 your son was home or at college?
- 21 **A.** Yes. He was at [[[[[[]]]].
- 22 **Q.** And without saying the substance of a conversation, did
- 23 you have a conversation with the head of Gilman that prompted
- 24 | you to call your son?
- 25 **A.** I did.

- 1 **Q.** And after your conversation, did you subsequently drive to
- 2 00000000?
- 3 **A.** Yes. We were supposed to go up Saturday and we decided to
- 4 go up right away.
- 5 \mathbf{Q} . So you did have a plan to go see him but it was not going
- 6 to be until Saturday?
- 7 A. Right.
- 8 **Q.** And so you ended up driving up when?
- 9 **A.** Right after the conversation with the head.
- 10 | Q. And why did you decide to drive up to see him in person on
- 11 | that Friday instead of wait until Saturday?
- 12 **A.** Yeah. I sensed he was in a lot of trouble.
- 13 **Q.** How soon after your conversation with the head of Gilman
- 15 A. Probably within a half hour.
- 16 **Q.** Who went with you?
- 17 A. My wife.
- 18 **Q.** What did you do when you arrived to [[[[[[[]]]]]]?
- 19 A. I dropped my wife off at a hotel that we were able to get,
- 20 and then I went and got [[[]]], and we went and had dinner.
- 21 **Q.** And where did you have dinner?
- 22 A. Panera Bread.
- 23 **Q.** And was there anyone else present for the conversation?
- 24 A. No.
- 25 **Q.** And how long did you meet with and talk to your son?

- 1 A. Two, two and a half hours.
- 2 **Q.** And after that conversation, where did you go and where
- 3 | did your son go?
- 4 **A.** My son went back to where he was living. I dropped him
- 5 off. And I went home and talked to my wife.
- 6 | Q. And when you say home, where did you go?
- 7 A. Yeah, hotel.
- 8 Q. When you got to the hotel and spoke to your wife, what did
- 9 you do? What did you both do?
- 10 A. Cry, a lot. And then tried to find a way that I could
- 11 protect my son.
- 12 **Q.** Who did you contact, if anyone?
- 13 A. We contacted a family friend who is a lawyer by the name
- 14 of Steve Silverman.
- 15 \mathbf{Q} . And do you recall whether in the near future your son --
- 16 | it was arranged for your son to return to Baltimore?
- 17 A. Yeah. So we consulted with Mr. Silverman to try to help
- 18 us understand what we should do. I was worried for my son's
- 19 life and health. And I needed help from somebody to guide me
- 20 on who we should contact. And he put us in touch with the FBI
- 21 and Baltimore County.
- 22 **Q.** And were arrangements made for your son to meet with
- 23 investigators --
- 24 **A.** Yes, yes.
- MS. HAGAN: Court's indulgence. Nothing further, Your

```
Honor, for [[[[[[[[[[]]]]]]]]].
 1
 2
            THE COURT: Thank you. Cross-examination.
 3
            MR. PROCTOR: Your Honor, can I have a second to
 4
    consult with Mr. Nieto?
 5
            THE COURT: Yes.
         (Counsel conferring.)
 6
 7
            MR. PROCTOR: I have no questions for this witness.
            THE COURT: May the witness be excused, Ms. Hagan?
 8
 9
            MS. HAGAN:
                        Yes, Your Honor.
10
            THE COURT: Mr. Proctor?
11
            MR. PROCTOR: Yes, Your Honor.
12
            THE COURT: Sir, you may be excused or remain if you
13
    wish.
        Next witness.
14
15
            MS. MCGUINN: Your Honor, the next witness is probably
16
    going to be lengthy. I don't know if Your Honor --
17
            THE COURT: We'll start.
            MS. MCGUINN: Can I have a minute to retrieve them?
18
19
            THE COURT: Yes.
20
            MS. MCGUINN: The Government is next calling [[[[[[
21
    [[[]]]], Your Honor.
22
            23
        While we're waiting, private channel.
24
         (Whereupon, the following conference was held at the
25
    bench:)
```

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```
THE COURT: So how long do you think the direct will
 1
 2
    take?
 3
                           It's hard to say, Your Honor. I would
             MS. MCGUINN:
 4
    estimate at least an hour and a half.
 5
             THE COURT: We'll probably go until about 1:00.
    a break for lunch and then resume after lunch.
 6
 7
             MS. MCGUINN: Your Honor, if I find a natural break
 8
    close to 1:00, would that be acceptable before --
 9
             THE COURT: Yeah. Wait til we're in the sort of after
10
    12:45, 12:50 range.
11
             MS. MCGUINN: Yes, sir.
12
             THE COURT: And then tell looking for something and
13
    then tell me that that's logical.
14
             MS. MCGUINN: Yes, sir.
         (Whereupon, the bench conference was concluded.)
15
16
             THE COURT: Please come forward, sir, up here to the
17
    front of the courtroom. You'll see a witness box. When you
18
    arrive there, stop, turn to our left, face our clerk, and raise
19
    your right hand.
20
             THE CLERK: Sir, please raise your right hand.
21
         (Witness sworn.)
             THE CLERK: Thank you, sir. You may take a seat in
22
23
    the witness box. Sir, speaking directly into that microphone
24
    to your right can you please state and spell your first and
25
    last name.
```

```
1
            THE WITNESS:
                         0000000000000000.
 2
   3
            THE CLERK:
                       Thank you.
 4
            THE COURT:
                       Thank you, sir. Your witness, ma'am.
 5
                        DIRECT EXAMINATION
   BY MS. MCGUINN:
 6
 7
        Q.
 8
        Twenty-three.
   Α.
        What is your date of birth?
 9
   Q.
10
   Α.
        March 20th, 2001.
11
        Do you have a nickname you use commonly use other than
   Q.
   000000?
12
13
        Yes, [][]].
   Α.
        Just for the record, how do you spell [[[]]?
14
   Q.
15
        000000000.
   Α.
16
        Thank you, sir.
   Q.
17
        And did you recently graduate college?
18
        Yes.
   Α.
        Where did you attend college?
19
   Q.
        20
   Α.
        Did you just graduate in this past May?
21
   Q.
22
   Α.
        Yes.
23
   0.
        Are you currently employed?
24
   Α.
        Yes.
25
   Q.
        What kind of work do you do?
```

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- 1 A. Finance.
- 2 **Q.** Where did you grow up?
- 3 A. Baltimore.
- 4 **Q.** Who are your parents?
- 5 **A.** 000000000000.
- 6 **Q.** 0000000?
- 7 **A.** Yes. [[[[[]]]].
- 8 Q. That's fine. I probably understood but just making sure.
- 10 | that microphone along the rail a little closer to you so it
- 11 picks you up a little bit better.
- 12 **THE WITNESS:** All right.
- 13 BY MS. MCGUINN:
- 14 **Q.** And you have siblings?
- 15 **A.** Yes.
- 16 **Q.** Who are your siblings?
- 17 A. 000000 and 000000 0000000.
- 18 **Q.** Are they older or younger?
- 19 **A.** Older.
- 20 | Q. [[[[[[[[[[[]]]]]]]]], did you play any [[[[[[[[]]]]]]]] -- or, excuse me, I
- 21 just gave away the answer. Did you play any sports in college?
- 22 **A.** Yes.
- 23 **Q.** What was that?
- 24 A. 00000000.
- 25 **Q.** Where did you attend grade school?

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- 1 A. Gilman.
- 2 **Q.** And did you attend grade school through 12th grade at
- 3 | Gilman?
- 4 **A.** Yes.
- 5 **Q.** Did you attend middle school at Gilman?
- 6 **A.** Yes.
- $7 \mid \mathbf{Q}$. Where were your parents working at the time that you
- 8 attended Gilman?
- 9 **A.** Both were at Gilman, I believe. My mom was in and out of
- 10 | schools, different schools.
- 11 **Q.** There came a point where she also worked at Gilman while
- 12 | you were there?
- 13 **A.** Yes.
- 14 **Q.** Did you attend sixth and seventh grade at Gilman?
- 15 **A.** Yes.
- 16 **Q.** Did you have an advisor?
- 17 **A.** Yes.
- 18 **Q.** Who was your advisor in sixth and seventh grade?
- 19 **A.** Brooks Matthews.
- 20 **Q.** And for the ladies and gentlemen of the jury who may not
- 21 know, what does an advisor do for a middle school student at
- 22 | Gilman?
- 23 A. You just meet with them couple times a week just to go
- 24 over how you are doing in school, how life's going and whatnot.
- 25 **Q.** And were those meetings, like, during the school day?

- 1 **A.** Yes.
- 2 **Q.** And were they somewhat informal, friendly, interactive?
- 3 **A.** Yes.
- $4 \mid \mathbf{Q}$. Would the advisor or in this case Mr. Matthews for sixth
- 5 and seventh grade, was that person aware of, like, your grades?
- 6 **A.** Yes.
- 7 **Q.** Did something change after seventh grade while you were at
- 8 | Gilman?
- 9 **A.** Yes.
- 10 **Q.** What happened?
- 11 A. I went to Calvert School for seventh grade again.
- 12 Repeated.
- 13 **Q.** Do you understand or what do you understand about why you
- 14 | went to Calvert School?
- 15 **A.** Maturity issues. I got a lot of detentions and it seemed
- 16 like the best idea.
- 17 **Q.** Whose decision was it for you to go to Calvert School?
- 18 **A.** Mainly my parents, but I agreed.
- 19 Q. You agreed with them.
- 20 What was the plan upon finishing seventh grade at Calvert
- 21 | School?
- 22 **A.** The plan was to stay at Calvert but that changed to --
- 23 **Q.** But that changed --
- 24 A. Yes, to go back to Gilman for eighth grade.
- 25 **Q.** Whose decision was that?

- 1 A. Both my parents and mine.
- 2 **Q.** When you returned to Gilman, did you get an advisor for
- 3 | your class when you returned?
- 4 **A.** Yes.
- 5 **Q.** It's probably understood but you returned starting now
- 6 eighth grade?
- 7 A. Eighth grade.
- 8 **Q.** So who was your advisor in eighth grade?
- 9 A. Chris Bendann.
- 10 **Q.** Did you know Chris Bendann prior to the eighth grade?
- 11 **A.** Yes.
- 12 **Q.** If you can put yourself in your 13, 14-year-old brain,
- 13 what was your thoughts on Chris Bendann as a teacher and
- 14 advisor at Gilman School and middle school?
- 15 A. He was a cool guy. Seemed like the advisor people wanted.
- 16 **Q.** He seemed like, I'm sorry, the advisor people wanted?
- 17 **A.** Yes.
- 18 **Q.** Okay. Was there anyone else in your advisory from the
- 19 eighth grade class with you?
- 20 **A.** Yes.
- 21 **Q.** Who were those people?
- 22 **A.** Wallace Halpert, Jack Witherspoon, and Avery Meyer.
- 23 **Q.** I just want to make sure. Wallace Halpert?
- 24 **A.** Yes.
- 25 **Q.** Jack Witherspoon?

- 1 **A.** Yes.
- 2 **Q.** And Avery Meyer?
- 3 **A.** Yes.
- 4 Q. And, in fact, the advisory was made up of not just you
- 5 four boys, but boys from the seventh and sixth grade too.
- 6 **A.** Yes.
- 7 **Q.** Upon returning in eighth grade, were there any
- 8 difficulties in terms of your social life?
- 9 **A.** Yes.
- 10 **Q.** Can you describe that?
- 11 A. Yes. So all of the kids that I grew up with at Gilman
- 12 | from first to seventh grade were now in high school. And I was
- 13 having to make new friends back in a new grade at Gilman while
- 14 all of them were now in the Upper School.
- 15 **Q.** At Gilman is the Upper School high school in the same
- 16 | building as the middle school?
- 17 **A.** No.
- 18 **Q.** To that end, did you see your prior classmates who are now
- 19 in ninth gray, did you see them during the school day?
- 20 **A.** Not as much. Not as frequently.
- 21 **Q.** What about playing sports, did they play sports in high
- 22 | school?
- 23 A. Yes.
- 24 **Q.** And as an eighth grader were you able to play on the same
- 25 Gilman sports teams as them?

- 1 **A.** No.
- 2 \mathbf{Q} . What about socializing in terms of like after school,
- 3 | weekends, did that change at all in terms of your friends who
- 4 are now in the high school?
- 5 **A.** Yes.
- 6 \mathbf{Q} . How was that for you?
- 7 **A.** Pretty tough, I'd say. Definitely tough.
- 8 Q. Can you tell me a little bit about what you mean when you
- 9 say tough?
- 10 | A. Just difficult to, like, think about the guys that I grew
- 11 up with are now just doing things without me and stuff like
- 12 that.
- 13 **Q.** Did there come a point now in middle school that you
- 14 | socialized with the Defendant, Chris Bendann?
- 15 **A.** Yes.
- 16 **Q.** Can you tell me, in what ways did you socialize with him?
- 17 A. Usually involving going to breakfast or hanging out at the
- 18 houses that he'd be house-sitting.
- 19 **Q.** Can you tell me a couple of places, you mentioned
- 20 | breakfast, tell me a couple of the places you guys would maybe
- 21 go for breakfast?
- 22 A. Johnny's, Ms. Shirley's, Rise.
- 23 **Q.** Are you familiar with the Elkridge Country Club?
- 24 **A.** Yes.
- 25 **Q.** Was your family a member there?

- 1 **A.** Yes.
- 2 **Q.** Was the Defendant a member there?
- 3 **A.** Yes.
- $4 \mid \mathbf{Q}$. Would you ever see him there at the pool or other aspects
- 5 of that club?
- 6 **A.** Yes.
- 7 | Q. Did you consider him a friend in eighth grade?
- 8 **A.** Yes.
- 9 **Q.** Can you tell me about that relationship, your friendship?
- 10 A. I'd say -- he was -- he was just, like, we texted. I got
- 11 | food in eighth grade. That's like a friendship I'd say. I
- 12 don't know.
- 13 **Q.** Did he have any nicknames for you?
- 14 A. Uh-Uh. Yes.
- 15 **Q.** What were they?
- 16 A. 0000000 and 00000.
- 17 **0.** [[[[[]]]]] and [[[]]]?
- 18 **A.** Yes.
- 19 **Q.** The nickname [[[[[]]]], did anyone else ever call you that?
- 20 **A.** Yes.
- 21 **Q.** Who?
- 22 A. My family.
- 23 **Q.** And does your family still call you that?
- 24 **A.** No.
- 25 **Q.** Why?

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- 2 **Q.** Why?
- 3 A. Because it brought up bad thoughts.
- 4 **Q.** Did you have a cell phone while you were at Gilman?
- 5 **A.** Yes.
- 6 **Q.** How old do you think you were when you got one?
- 7 A. Thirteen or 14.
- 8 **0.** Middle school?
- 9 A. Yeah.
- 10 **Q.** And what type of phone was it?
- 11 | A. IPhone.
- 12 \mathbf{Q} . And can you tell me the last four digits of your cell
- 13 | phone number?
- 14 **A.** 0307.
- 15 **Q.** Did you have social media when you were at Gilman?
- 16 **A.** Yes.
- 17 **Q.** And what types of social media platforms did you use?
- 18 A. Snapchat, Instagram, Twitter.
- 19 **Q.** Let's start with Instagram. Was your Instagram profile
- 20 public or private?
- 21 A. Private.
- 22 **Q.** And for those of us who might not know, what does it mean
- 23 when your Instagram profile is private?
- 24 A. People can't see what's on your Instagram profile unless
- 25 you accept them to follow you.

- 1 Q. Is that a similar concept to being friends, I'm using air
- 2 quotes, but friends on social media?
- 3 **A.** Yes.
- 4 Q. And what about Snapchat, was your Snapchat profile public
- 5 | or private?
- 6 A. Private.
- 7 Q. And can you explain how that works in terms of Snapchat of
- 8 your profile being public or private?
- 9 A. Similar. You need to accept anyone that requests to be
- 10 | your friend on Snapchat.
- 11 $| \mathbf{Q} |$ And if someone requests to be your friend, how -- what do
- 12 | you do, or how do you make that person your friend or follow
- 13 them? Can you explain that process a little bit.
- 14 | A. You just, it like pops up. It says so-and-so wants to be
- 15 | your friend and you either hit "yes" or you hit "no."
- 16 **Q.** You either hit "yes" or hit "no"?
- 17 **A.** Uh-huh.
- 18 **Q.** Does Snapchat have a geolocation or a mapping aspect to
- 19 | it?
- 20 **A.** Yes.
- 21 **Q.** Can you explain what that is?
- 22 **A.** It's part of the app and it shows the last time you were
- 23 on Snapchat where your location was.
- 24 **Q.** Like, location in terms of geographic location?
- 25 **A.** Yes.

- 1 **Q.** How specific is it?
- 2 A. Very specific when you're on the app.
- 3 **Q.** When you're on the app, okay. City and state?
- 4 **A.** Yes.
- 5 **Q.** What about country?
- 6 **A.** Yes.
- 7 **Q.** Is there something in Snapchat called stories?
- 8 **A.** Yes.
- 9 **Q.** What are stories in Snapchat?
- 10 A. They're something that you can put on your story and it
- 11 goes to everybody on your friends' list, not just an individual
- 12 person.
- 13 **Q.** And a story, is that something that's typed, a video, a
- 14 | photo, something else?
- 15 **A.** All of the above. It can be anything.
- 16 **Q.** What is a streak?
- 17 A. It's a number next to somebody's name for how many
- 18 | consecutive days that you've Snapchatted with someone.
- 19 **Q.** And when you say "Snapchat with someone," is that
- 20 different from what you were just saying about a story where
- 21 all your friends see it?
- 22 **A.** Yes.
- 23 **Q.** Can you tell me what it means when you Snap with somebody?
- 24 A. It's more individualized, like, just one person to another
- 25 person. Nobody else sees it.

- 1 Q. So if you and I were friends on Snapchat and I took a
- 2 picture of me and Ms. Hagan and send it to you, is that what
- 3 you're talking about?
- 4 **A.** Yes.
- 5 **Q.** And to keep a streak, what would then have to happen?
- 6 A. I would have to respond and we would go back and forth
- 7 | continually for a certain amount of days.
- 8 Q. Okay. And for those who may not know, what kinds of
- 9 photos and things are sent to try to keep a streak going?
- 10 | A. Just like selfies of yourself. If you're doing anything
- 11 | cool, taking a picture of that, et cetera.
- 12 **Q.** Okay. To your knowledge did the Defendant, Chris Bendann,
- 13 | did he have a cell phone?
- 14 **A.** Yes.
- 15 **Q.** What type of cell phone did he have?
- 16 A. IPhone.
- 17 **Q.** And you had seen it before?
- 18 **A.** Yes.
- 19 **Q.** Do you know if he had any social media accounts that you
- 20 | were familiar with?
- 21 **A.** Yes.
- 22 **Q.** And what platforms?
- 23 A. Instagram, Snapchat, Twitter.
- 24 **Q.** Okay. And did you have access or did you know the
- 25 password to the Defendant's iPhone?

- 1 A. I did not.
- 2 **Q.** What about his Snapchat account?
- 3 **A.** No.
- 4 **Q.** What about his Instagram account?
- 5 **A.** No.
- 6 \mathbf{Q} . And as you sit here today, can you recall what his
- 7 | Instagram handle or name was?
- 8 **A.** Yes.
- 9 **Q.** What was it, if you recall?
- 10 A. It was either ckbend or ckbenda.
- 11 **Q.** What about Snapchat?
- 12 A. Those were the two names that he used. So it was vice
- 13 | versa --
- 14 **Q.** Ckbend or ckbenda, one was to the other?
- 15 **A.** Yes.
- 16 **Q.** If we can bring up Government's Exhibit 122. It's going
- 17 to be right in front of you, [[[[[[[[[[[]]]]]]]]]].
- 18 Do you recognize this?
- 19 **A.** Yes.
- 20 **Q.** You've seen this before?
- 21 **A.** Yes.
- 22 **Q.** What do you recognize this to be?
- 23 A. Us meeting for breakfast, when I did breakfast.
- 24 **Q.** You've had an opportunity to see this entire packet, if
- 25 you look at the bottom it says it's 330 pages?

- 1 **A.** Yes.
- 2 **Q.** What is this entire 330-page document?
- 3 A. Text messages with me and the Defendant.
- 4 Q. With you and the Defendant. Okay. And if we can bring up
- 5 | Government's Exhibit 156, please. Who is that?
- 6 A. That's me.
- 7 \mathbf{Q} . If we could scroll to the next page, please. Who's
- 8 depicted -- you can start with the top photo. Who is depicted
- 9 | in that top photo?
- 10 **A.** Avery Meyer to the right and then Wallace Halpert all the
- 11 way right.
- 12 **Q.** Let me do it this way, who's in the shirt that says "Shoot
- 13 | Out For Soldiers"?
- 14 A. Wallace Halpert.
- 15 **Q.** Who has the orange hat on?
- 16 A. Avery Meyer.
- 17 **Q.** And who's in the center?
- 18 A. Mr. Bendann.
- 19 **Q.** The kid with the Gilman Show?
- 20 A. Oh, that's me.
- 21 **Q.** What about the photo right below that, who's depicted
- 22 | there?
- 23 A. That's myself on the left and the young Charlie Halpert on
- 24 the right.
- 25 **Q.** A young Charlie Halpert. Is he related to the Wallace

- 1 | Halpert you mentioned before?
- 2 A. Yes, it's his older brother.
- 3 **Q.** An older brother, okay.
- 4 Can we go down the next page. Who's that?
- 5 A. That's me.
- 6 \mathbf{Q} . Approximately how old are you there, if you can tell?
- 7 **A.** Probably 14 or 15.
- 8 **Q.** Next photo. Who's that?
- 9 A. That's me.
- 10 **Q.** Can you tell where you are when you look at that
- 11 | background?
- 12 **A.** Yes.
- 13 **0.** Where is that?
- 14 A. Bill Bateman's.
- 15 **Q.** And tell me a little bit about Bill Bateman's?
- 16 | A. A group of us would go for wing night. I forget the exact
- 17 day, but they used to have wing night one day a week, but we'd
- 18 usually go and get a crew together for it.
- 19 **Q.** And on wing night who -- when you say we, can you name for
- 20 | me who you would commonly see with you at wing night?
- 21 A. Well, the Defendant would get a group chat going with a
- 22 bunch of kids and say, "Who's in for tonight?" And it would
- 23 usually be James Schloeder, myself, some of the older kids like
- 24 | Charlie or Wade Oursler.
- 25 **Q.** Would there ever be any girls or girls that were friends

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- 2 **A.** Yes.
- 3 Q. If we can -- I think there might be one more, I can't
- 4 remember. Who's that?
- 5 A. That's me.
- 6 **Q.** And is this a photo of your learner's?
- 7 **A.** Yes.
- 8 **Q.** Do you recall whether or not the Defendant would house-sit
- 9 or babysit for families that you knew or friends that you knew?
- 10 **A.** Yes.
- 11 **Q.** Can you tell us some of the family names of people where
- 12 | you knew house-sitting or babysitting occurred?
- 13 A. DeMuth, Halpert, Feiss, Stuzin, McCrickard.
- 14 **Q.** DeMuth's, Halpert, Feiss, McCrickard?
- 15 **A.** And Stuzin.
- 16 **Q.** And Stuzin. Thank you. Did he ever babysit or house-sit
- 17 | for you, for you while you were there or for your family when
- 18 | none of you were there?
- 19 **A.** No.
- 20 $| \mathbf{Q}$. Did there come a time when you started drinking alcohol?
- 21 **A.** Yeah.
- 22 **Q.** How old do you think you were when you started introducing
- 23 | that sort of into your lifestyle?
- 24 A. Either 14 or 15 I'd say.
- 25 **Q.** And did your parents know about that at least initially

- 1 when you were 14 or 15?
- 2 **A.** No.
- 3 MS. MCGUINN: If we can bring up Government's
- 4 Exhibit 122, again, which is that 2015 chat. And if you can
- 5 | scroll down to page 189, please.
- 6 BY MS. MCGUINN:
- 7 **Q.** While she's doing that, <code>[][][][][][][]</code>, are you familiar with
- 8 | if I say the term "naked lap," what is that?
- 9 **A.** Yes.
- 10 \mathbf{Q} . Can you tell the ladies and gentlemen of the jury what is
- 11 | a naked lap? When I say that phrase, what does that mean to
- 12 you?
- 13 A. Either involving the hill at St. Paul School or Meadow
- 14 Wood Park. The Defendant would get a group of us together
- 15 after we had been out drinking and go to these places and make
- 16 us run a naked lap.
- 17 **Q.** Make you run a naked lap. So in your memory, who would be
- 18 present when you would run a naked lap?
- 19 A. Usually William Godine, Michael Brittingham, Jack Stuzin,
- 20 | the Defendant and --
- 21 **Q.** How would you get to Meadow Wood or St. Paul School?
- 22 A. The Defendant would drive.
- 23 **Q.** Did you have your license at that point yet?
- 24 **A.** No.
- 25 **Q.** And whose idea was it?

- 1 | A. Usually the Defendant's.
- 2 Q. When you would run a naked lap, if you could be specific,
- 3 | how would you get to let's say St. Paul School? How would you
- 4 | get to St. Paul School? What would happen when you got there?
- 5 | If you could lead us to those events?
- 6 A. We would be out at a party or something, the Defendant
- 7 | would pick us up. He would begin mentioning the naked lap.
- 8 And then we would be, like, all right, yeah, sure, whatever.
- 9 And then we would drive to St. Paul's and stop at, like,
- 10 | the top of the hill or bottom of the hill. And he'd be, like,
- 11 | all right, run. Like, stuff like that.
- 12 **Q.** What would you do with your clothing?
- 13 A. I'd leave it in the car.
- 14 $| \mathbf{Q}$. And the other guys, to your knowledge, would they leave
- 15 theirs in the car, too?
- 16 **A.** Yes.
- 17 **Q.** What does the hill at St. Paul, like, how long is that?
- 18 How long is that run?
- 19 A. It's a pretty big hill.
- 20 **Q.** Okay. I guess I'm trying to get an approximate time how
- 21 long would you be out there running is I guess what I'm getting
- 22 | at?
- 23 **A.** For, like, couple minutes I'd say.
- 24 **Q.** Where would the Defendant be while you were doing this?
- 25 A. Usually at the top of the hill.

- 1 **Q.** Doing what?
- 2 A. Just watching.
- 3 **Q.** To your knowledge at St. Paul School did he ever -- was
- 4 | that ever recorded in any way?
- 5 A. I'm not sure.
- 6 Q. Okay. So now that we have page 189 up, if you can take a
- 7 look at that. Starting towards the bottom you see a message in
- 8 blue that says "When are you running? I might actually come
- 9 and try to join you?" That is from August 6th of 2016. How
- 10 old are you in August of 2016?
- 11 **A.** Either 14 or 15.
- 12 **Q.** So quick math, you were born in 2001, right?
- 13 **A.** Yeah. 15.
- 14 **Q.** So in 2016 you're 15?
- 15 **A.** 15, yeah.
- 16 **Q.** That's fine. So this is August. What season or athletic
- 17 | season are you heading into as a freshman in August of 2016?
- 18 A. Soccer.
- 19 **Q.** Would you have run or done some training prior to starting
- 20 | for a soccer at Gilman as a freshman?
- 21 A. I probably should have but I didn't do much.
- 22 **Q.** Okay. In this part of the conversation, you see the
- 23 Defendant is asking you "When are you running? I might try to
- 24 come with you" and your response was "9:30." When you see this
- 25 part of the conversation, are we talking about naked running or

- 2 A. Regular running.
- 3 **Q.** We can scroll to the next page, please, Ms. Jarman. If we
- 4 can look at the rest of that conversation. Ms. Jarman, you
- 5 could highlight from the top down to "true" for me, please.
- 6 Thank you.
- The second line in that, "You should have done your run around Meadow Wood tonight," what does that reference to you?
- 9 A. The naked runs.
- 10 **Q.** Okay. When you wrote "I'm good." And it says "You could
- 11 have gotten all your eggs hatched," do you know what that means
- 12 | when it says "all your eggs hatched," what's that in reference
- 13 | to?
- 14 A. Getting it all done at once, I think. I don't know.
- 15 Q. Ms. Jarman, if we could clear that part, please, and go to
- 16 | the bottom, last three.
- 17 If you look at that first line of the text from the
- 18 Defendant, "Except when you run Meadow Wood you don't have
- 19 pockets." What is that in reference to?
- 20 **A.** Being naked.
- 21 **Q.** Did you respond to him?
- 22 **A.** No.
- 23 **Q.** And that was in August of 2016. You finished eighth grade
- 24 | that spring in 2016; is that right?
- 25 **A.** Yes.

- 1 Q. So you entered as a freshman in the fall of 2016?
- 2 **A.** Yes. '16, '17?
- 3 **Q.** September, sorry, September.
- 4 And in high school, to your recollection, did those naked
- 5 runs escalate into something else?
- 6 **A.** Yes.
- 7 | Q. Can you tell us what happened and how it happened?
- 8 **A.** Yes. So --
- 9 \mathbf{Q} . I'm going to ask you, I know this is difficult, if you
- 10 | could kind of keep your voice up. You do have a very natural
- 11 | low voice so just keep your voice up and pretend you have to
- 12 | make me hear you all the way back here, okay.
- 13 A. Yes. So we'd be out at parties drinking and scared to
- 14 | tell our parents that, like, we were out drinking, so we'd ask
- 15 the Defendant for a ride home just to -- because he had done it
- 16 before. Then it became an individual thing between myself and
- 17 | the Defendant. And these turned into going to McDonald's to
- 18 get food and then just kept getting worse and worse.
- 19 **Q.** Let me stop you for one minute. When he would pick you up
- 20 at parties, you said it started to turn individual, meaning
- 21 just you and he would be in the car?
- 22 **A.** Yes.
- 23 **Q.** Would he pick you up from parties just you?
- 24 **A.** Yes.
- 25 **Q.** You said you would go to McDonald's. What time of day are

- 2 A. Any time past midnight usually.
- 3 \mathbf{Q} . To your knowledge is the McDonald's you went to open 24/7?
- 4 **A.** Yes.
- 5 \mathbf{Q} . Did you have a nickname or a funny way you referred to
- 6 McDonald's? Like the name of McDonald's, the restaurant if you
- 7 | were referring to it in slang?
- 8 A. McDank's.
- 9 **Q.** And you just said that it would get worse and worse?
- 10 **A.** Yeah.
- 11 **Q.** Can you tell me what do you mean by that?
- 12 **A.** Yeah, so it started with just obviously like what we just
- 13 | said, going to McDonald's. And then it turned into if we go to
- 14 McDonald's I had to be naked in the car. And then it turned
- 15 | into after getting McDonald's while I was naked to go into a
- 16 parking lot. And then it turned into having myself -- or
- 17 having me touch myself. And then it turned into him touching
- 18 | me and then this all started.
- 19 **Q.** Let's stop with what you just said for now. How old were
- 20 you when you said first it was you would have to be naked in
- 21 | the car if you got McDonald's? How old do you believe you were
- 22 | when that first started?
- 23 A. Fifteen.
- 24 **Q.** And then you said it progressed to you having to touch
- 25 yourself. Approximately how old were you when that progression

- 2 A. Fifteen.
- 3 **Q.** What about the next progression you describe which was him
- 4 touching you?
- 5 A. Same age, 15 probably.
- 6 **Q.** And if we're 15, 2016, you were a freshman, sometime
- 7 during your freshman year?
- 8 **A.** Yes.
- 9 **Q.** And to your knowledge was that behavior, those
- 10 | interactions, ever recorded in any way?
- 11 **A.** Yes.
- 12 **Q.** And how was that done?
- 13 A. On his cell phone.
- 14 **Q.** And would you see his cell phone?
- 15 **A.** No.
- 16 **Q.** Did you know that you were being filmed?
- 17 **A.** No.
- 18 **Q.** And in instances where you had to touch yourself, be
- 19 | specific, what were you touching and what were you doing?
- 20 A. Touching --
- 21 **Q.** Was it your private area?
- 22 **A.** Yes.
- 23 **Q.** You weren't touching your hair, right?
- 24 **A.** Oh, no.
- 25 **Q.** So your private area?

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- 1 **A.** Yes.
- 2 \mathbf{Q} . And what action or specifically what were you doing?
- 3 **A.** Rubbing it, like jerking off.
- 4 Q. Okay. That's fine. When you would do that, would you
- 5 ever hold your cell phone or do anything during those moments?
- 6 **A.** Yes.
- 7 **Q.** What would you do?
- 8 A. Watch porn.
- 9 \mathbf{Q} . After you indicated him touching you, can you tell us what
- 10 | that means? And, again, I apologize for being specific. I
- 11 | just want to make sure we're not talking about touching your
- 12 | hair. So when you say that, what do you mean by he would touch
- 13 | you?
- 14 A. Private parts.
- 15 \mathbf{Q} . Okay. Was it touching, masturbating, or something else?
- 16 **A.** All of the above.
- 17 **Q.** Where would that occur? Where did that first occur?
- 18 A. In the parking lot.
- 19 **Q.** Did there come a time where interactions were no longer in
- 20 a vehicle?
- 21 **A.** Yes.
- 22 **Q.** Can you tell me about that?
- 23 A. As we mentioned earlier, he would stay at people's houses
- 24 and he would pick us up from parties or pick myself up from
- 25 parties and say, all right, we're going to so-and-so's house,

- 1 wherever he was staying.
- 2 **Q.** Okay. Are those those houses you mentioned: McCrickard,
- 3 DeMuth, Feiss, Halpert, Stuzin? When you say the houses, is
- 4 | that what you mean?
- 5 **A.** Yes.
- 6 Q. And do you have a recollection of those events at those
- 7 | homes where anything specific would occur? Or where
- 8 | specifically in the home things would occur?
- 9 **A.** Usually in the bathroom.
- 10 **Q.** What part of the bathroom?
- 11 A. The bathtub or the shower.
- 12 **Q.** And how old were you when the interactions between you and
- 13 the Defendant were now inside homes inside of bathrooms and
- 14 | showers?
- 15 A. Fifteen or 16 at this point.
- 16 **Q.** To your knowledge were those interactions documented or
- 17 | filmed in any way?
- 18 **A.** Yes.
- 19 **Q.** Ms. Jarman, if we can bring up Government's Exhibit first
- 20 | 204.
- 21 | IIIIIIIIIII, in looking at this, do you recognize what
- 22 | this is?
- 23 **A.** Yes.
- 24 **Q.** First let's start with this, who is it?
- 25 **A.** It's me.

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- **Q.** Do you see what you're wearing?
- **A.** Yes.
- **Q.** What is that?
- 4 A. Princeton shirt.
- **Q.** Did you own a Princeton shirt?
- **A.** Yes.
- **Q.** Was that something you would wear to school or casually?
- 8 A. Casually.
- **Q.** Where are you in this photo?
- 10 A. Defendant's car.
- **Q.** What are you holding in your hand, if you can see it?
- **A.** A private part.
- **Q.** What about your other hand, not the black box but what's
- 14 | in your other hand that's kind of on the upper side of the
- 15 | scene?
- 16 A. Holding my phone.
- \mathbf{Q} . Is this something that we were talking about where you
- 18 | would look at your phone?
- **A.** Yes.
- **Q.** If we can move to 205, please.
- 21 Do you recognize that person?
- **A.** Yes.
- **Q.** Who is that?
- **A.** It's me.
- **Q.** And again, where are you?

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- 1 A. In the car.
- 2 **Q.** If we can move to 206.
- 3 Do you recognize that person?
- 4 **A.** Yes.
- 5 \mathbf{Q} . Who is that?
- 6 A. It's me.
- 7 $| \mathbf{Q}$. We can move to -- I lost track of our number, I think
- 8 | we're on 207. 207.
- 9 Do you recognize that person?
- 10 **A.** Yes.
- 11 | Q. Do you recognize that bracelet on the arm?
- 12 **A.** Yes.
- 13 **Q.** Who is that?
- 14 A. That's me.
- 15 \mathbf{Q} . And who is the other person in that -- off to the side in
- 16 | that image?
- 17 **A.** The Defendant.
- 18 **Q.** What about, let's do the last one, 208.
- 19 Do you recognize that person?
- 20 **A.** Yes.
- 21 **Q.** Who is that?
- 22 A. That's me.
- 23 **Q.** You recognize the bracelet?
- 24 **A.** Yes.
- 25 **Q.** Do you know where you are in this photo?

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- 1 A. Yeah.
- 2 **Q.** Where are you?
- 3 A. My bathroom at home.
- 4 **Q.** Your bathroom at home?
- 5 A. Yeah.
- 6 Q. In those images, five images I just showed you, do you
- 7 know how old you were -- we can clear that, thank you.
- 8 We'll start with the first one where you're in the
- 9 Princeton shirt. Do you know how old you were, approximately?
- 10 **A.** Fifteen or 16.
- 11 **Q.** Fifteen or 16.
- 12 What about the next video when we can kind of see your
- 13 bare chest?
- 14 A. Fifteen or 16.
- 15 \mathbf{Q} . Okay. What about the next one where there's sort of a
- 16 green background shower?
- 17 A. Fifteen or 16.
- 18 **Q.** Okay. What about the one where we can see sort of your
- 19 profile and the Defendant's face?
- 20 **A.** Fifteen or 16.
- 21 **Q.** Okay. What about the last one that you said was your
- 22 bathroom?
- 23 A. Fifteen or 16 I'd say.
- 24 **Q.** Fifteen, 16. Did you see 17?
- 25 A. No.

- 1 **Q.** Is it possible you were 17 in some of those?
- 2 MR. NIETO: Objection, Your Honor. Asked and
- 3 lanswered.
- 4 THE COURT: It's leading. Sustained.
- 5 MS. MCGUINN: Okay.
- 6 BY MS. MCGUINN:
- 7 Q. IIIIIIIIII, after these incidences began in the shower,
- 8 | did you tell anyone about what was happening?
- 9 **A.** No.
- 10 **Q.** Why not?
- 11 | A. Scared for people to know what was going on.
- 12 \mathbf{Q} . Can you explain to me why you were scared of people
- 13 knowing what was going on?
- 14 | A. Just -- I don't know -- being a kid that's being touched
- 15 by a teacher. It's not something you're proud of in a way.
- 16 Q. Did you have geolocation ability with the Defendant in
- 17 | your connection on Snapchat?
- 18 **A.** Yes.
- 19 **Q.** What about just within your iPhone?
- 20 **A.** Yes.
- 21 **Q.** Can you describe your level of drinking as you looked at
- 22 those five photos? What do you recall about your drinking
- 23 level at that point in time?
- 24 **A.** Heavy.
- 25 **Q.** And why was that?

- 1 A. Because I knew what was happening after, after whatever
- 2 party I was at.
- 3 **Q.** Did you want to do these things?
- 4 **A.** No.
- 5 **Q.** Why did you?
- 6 A. Sorry?
- 7 **Q.** Why did you?
- 8 A. I got threatened.
- 9 **Q.** Tell me about that.
- 10 **A.** There were multiple times where I tried to say I want to
- 11 | stop with all of this, and I'd be told that, like, he'd end up
- 12 exposing all of the pictures of myself naked to other people
- 13 and telling people what was going on.
- 14 Q. Were there times in some of the homes where those showers
- 15 were where other people might be present in the home for a
- 16 party or a gathering?
- 17 **A.** Yes.
- 18 **Q.** How would it come to be that you would be in a shower
- 19 while other people are in the home, that you recall?
- 20 **A.** Usually be, like, downstairs playing drinking games and
- 21 just get a text that said something along the lines of "come
- 22 upstairs."
- 23 **Q.** Did you feel you had a choice in that?
- 24 **A.** No.
- 25 **Q.** Why not?

- 1 A. Because I saw him, like, I mean, he was a strong guy.
- 2 Like, he -- I saw him hurt one of my friends so then I was,
- 3 | like, all right, yeah, I got to go up there.
- 4 **Q.** Did you ever try to block or ignore him?
- 5 **A.** Yes.
- 6 **Q.** What would the result be?
- 7 **A.** He would somehow find a way to get to me whether it was
- 8 texting my friends, creating group chats with myself and
- 9 friends.
- 10 **Q.** You graduated Gilman in 2020?
- 11 A. 2020.
- 12 **Q.** That was COVID year, was it not?
- 13 A. Yes.
- 14 **Q.** Did you have a typical graduation experience, prom, full
- 15 | walk-down, pomp and circumstance, all that stuff?
- 16 A. No.
- 17 **Q.** At Gilman is there such a thing as a retreat or senior
- 18 | retreat?
- 19 **A.** Yes.
- 20 **Q.** Are you given anything in particular as part of your
- 21 | Gilman experience that you can wear?
- 22 **A.** Yes.
- 23 **0.** What is that?
- 24 A. It's this (indicating).
- 25 **Q.** Silver necklace?

- 1 A. Yeah.
- 2 **Q.** Is that -- clearly you still wear it today. When do you
- 3 get that?
- 4 A. At the end of senior retreat.
- 5 **Q.** At the end of senior retreat. Do you recall as you sit
- 6 here, in 2019, 2020, that senior year, when you went on your
- 7 | senior retreat?
- 8 A. Sometime in the fall, I believe.
- 9 **Q.** In the fall?
- 10 **A.** Yes.
- 11 | Q. After finishing college you went -- excuse me, I'm sorry.
- 12 After finishing high school you went to college, yes?
- 13 **A.** Yes.
- 14 | Q. Where did you go?

- 17 A. 0000000000000.
- 18 **Q.** You started in the fall of 2020?
- 19 **A.** Yes.
- 20 | Q. And even though that was COVID, did you still go to
- 21 | campus?
- 22 **A.** Yes.
- 23 **Q.** And how was school situated for you in 2020?
- 24 A. Half remote, half in person.
- MS. MCGUINN: Your Honor, looking at the clock, before

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we get into college this might be a logical place.
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THE COURT: Thank you. We'll stop now and take the lunch break.

Ladies and gentlemen, it is time for us to take the midday

break. During this recess, do not discuss the case with anyone. Do not discuss even among yourselves. Do not allow yourselves to be exposed to any news articles or reports that touch upon the case or issues it presents or any articles or reports that relate to any of the participants in the case. Avoid all contact with any participants in the trial. Do not make any independent investigation of the law or the facts of the case. Do not look up anything on the internet. Do not consult an encyclopedia or a dictionary.

We will resume at 10 minutes past 2:00. That's an hour and 10 minutes from now. Take the jury out.

(Jury exits at 1:00 p.m.)

THE COURT: Be seated, please. Private channel.

(Whereupon, the following conference was held at the bench:)

THE COURT: Counsel, for scheduling purposes, this is to advise you that the Court will not sit next Friday all day.

The next portion of this proceeding is under seal.

```
1
       2
   3
   4
   5
       (Whereupon, the bench conference was concluded.)
          THE COURT: We'll resume at 10 minutes past 2:00.
6
                                                     Any
7
   issues before we take the recess. Ms. McGuinn?
                      Not from the Government.
8
          MS. MCGUINN:
9
          MR. NIETO: No, sir.
                    Very good. The Defendant is remanded
10
          THE COURT:
11
   until we resume.
          THE CLERK: All rise. This Honorable Court is now in
12
13
   recess.
14
       (A recess was taken from 1:02 p.m. to 2:18 p.m.)
15
                    All rise.
          THE CLERK:
          THE COURT: Be seated, please. I'll see counsel on
16
17
   the private channel.
       (Whereupon, the following conference was held at the
18
19
   bench:)
20
          THE COURT: So my question is for the Government.
                                                     Ιt
21
   has to do with the sensitive images. I'm realizing we maybe
22
   don't have exact understanding on both sides of this equation
23
   as to what is a disturbing image such that it should not be
24
   displayed in the gallery. Because with respect to the exhibits
25
   before lunch, you didn't give any such notice and accordingly
```

```
they were all displayed in the gallery.
 1
 2
         I take it then that there must be more graphic images to
 3
    come and it will be with respect to those that you're going to
 4
    request the special procedure that we agreed on pretrial?
 5
             MS. MCGUINN: Yes, Your Honor. As to those redacted
    images, they were meant for ID only which is why they were
 6
 7
    somewhat tamed, for lack of a better word.
             THE COURT: And some of them had parts of the body
 8
    obscured?
 9
10
             MS. MCGUINN:
                           Yes.
11
             THE COURT: Right.
12
                           But as to the actual videos, those will
             MS. MCGUINN:
13
    be played through Special Agent Calista Walker. That will not
14
    be until at least Monday. And we will have -- take a break.
15
    I'll make sure that Your Honor knows so that we can set the
16
    courtroom in the appropriate way --
17
             THE COURT: Right.
             MS. MCGUINN: -- and then we'll proceed with her.
18
19
         I have no other images that I'm showing this witness that
20
    are like the ones we just saw or anything remotely close to
21
    that.
22
             THE COURT:
                         Okay. Any questions on the defense side?
23
             MR. NIETO:
                         No, Your Honor.
24
             THE COURT:
                         Are we ready for the jury, Mr. Nieto?
25
             MR. NIETO:
                        Yes, Your Honor.
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THE COURT: Are we, ma'am?
 1
 2
           MS. MCGUINN: Yes.
 3
           THE COURT: Let's bring them in.
        (Whereupon, the bench conference was concluded.)
 4
 5
           THE COURT: Bring the jury in. And where's the
   witness? You can bring him back into the courtroom.
 6
 7
           MS. MCGUINN: Thank you, Your Honor.
        (Witness enters.)
 8
 9
           THE COURT: [[[[[[[[[[]]]]]]]]], you may resume the stand and
   you remain under oath. You can be seated and we'll all stand
10
11
   when the jury comes in.
12
           THE CLERK: All rise for the jury.
13
        (Jury enters at 2:21 p.m.)
14
           THE COURT: Be seated, please. Ladies and gentlemen,
   you'll remember that when we took the lunch break [[[[[[[[[[[[[
15
16
   was on the witness stand and was under direct examination by
17
   Ms. McGuinn. The witness remains under oath and, Ms. McGuinn,
18
   you may continue.
19
                        Thank you, Your Honor.
           MS. MCGUINN:
   BY MS. MCGUINN:
20
21
        22
   ask you about college, and I believe you said you attended
23
   24
   correct?
25
   Α.
        Yes.
```

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- 1 **Q.** Did you attend [[[[[[[[]]]]]]]] on any sort of scholarship?
- 2 **A.** Yes.
- 3 **Q.** For what?
- 4 A. 00000000.
- 5 **Q.** What was your major while you were attending [[[[[[]]]]]?
- 6 A. Finance.
- 7 **Q.** Did you have a roommate or close friend at [[[[[[[]]]]]] with
- 8 the first name of Pat?
- 9 **A.** Yes.
- 10 **Q.** What's Pat's last name?
- 11 | A. Ciquera.
- 12 **Q.** Is that someone you knew prior to attending [[[[[[[]]]]]]?
- 13 **A.** Yes.
- 14 Q. So he was not someone in your Gilman time frame or anyone
- 15 | that the Defendant knew from the time of Gilman?
- 16 **A.** No.
- 17 **Q.** Did you meet anyone in particular your first week of
- 18 | school?
- 19 **A.** Yes.
- 20 **Q.** Who was that?
- 21 A. My girlfriend, Riley Seelert.
- 22 **Q.** Again, for the record that's S-E-E-L-E-R-T; is that
- 23 | correct?
- 24 **A.** Yes.
- 25 **Q.** Did you begin dating her that first week or did that come

1 later?

- 2 A. Later.
- 3 **Q.** When you began attending [[[[[[]]], did the Defendant
- 4 | maintain contact with you?
- 5 **A.** Yes.
- 6 **Q.** How? In what way?
- 7 **A.** Text messages, Snapchat.
- 8 Q. Can you describe the nature of the text messages and
- 9 | Snapchat?
- 10 A. Hostile. I'd say, like, threatening in a way.
- 11 **Q.** Can you explain what you mean?
- 12 A. It wasn't a two-way street. Like, I was kind of forced to
- 13 | maintain contact in a way, I'd say.
- 14 Q. When you say "forced," what was the nature of the force,
- 15 and what would happen if you resisted that force?
- 16 A. The -- sorry, repeat that.
- 17 **Q.** What was the nature of the force? How did you feel
- 18 | forced?
- 19 A. Just, like, continuous messages when I wasn't responding
- 20 or finding some way to get in contact with me.
- 21 **Q.** Okay.
- 22 A. And if I wouldn't respond after periods of time he would,
- 23 | like, take pictures of, like, what he was doing to try to get
- 24 | into contact with my new friends that I was just meeting at
- 25 [[[[[[[]]]]]]]. And sent me other stuff.

- 1 Q. Did you try to maintain a -- I hesitate to use the word
- 2 | "normal" but a normal or typical friendship with the Defendant
- 3 during your years at [[[[[[[]]]]]]?
- 4 **A.** Yes.
- $5 \mid \mathbf{Q}$. Describe, if you can, what is a typical, again, using the
- 6 word "normal," what did that mean to you? What were you trying
- 7 to do?
- 8 A. Trying to stop what was going on. Other than what was --
- 9 like, other than -- trying to stop, like, the sexual parts of
- 10 | it and just, like, occasionally check in like you would with
- 11 | regular hometown friends. Just to, like -- I don't know, try
- 12 to go that direction.
- 13 **Q.** Okay. And were you successful?
- 14 A. No.
- 15 \mathbf{Q} . If I say the phrase to you "making a deal" in this
- 16 | context, what does that mean?
- 17 A. Eventually it would get to a point where I was, like, this
- 18 has to end. And in order to do that the Defendant would make
- 19 us go through deals to get back to being normal friends
- 20 | involving sexual implications. And once those were done, like,
- 21 | the whole idea was to go back to a normal friendship and
- 22 | everything would end.
- 23 **Q.** So can you tell me or give me an example of when you say
- 24 | "a deal" that was made to try to go back to a normal
- 25 | friendship, what would that deal entail?

- 1 A. Something like, I'd have to hang out with him naked two
- 2 times. I'd have to send him X amount of naked pictures. I'd
- 3 have to Snapchat him 15 times a day or something. Like, all of
- 4 those are kind of examples.
- 5 $| \mathbf{Q}_{\cdot} |$ And with regard to those deals, were they ever
- 6 satisfactory?
- 7 **A.** No.
- 8 **Q.** And how do you know they weren't satisfactory?
- 9 A. Because everything continued, and he'd say that they
- 10 | weren't.
- 11 **Q.** Okay. Were you ever given instructions as to how to
- 12 behave or attitude you should have in sending pictures or
- 13 | complying with these deals?
- 14 A. Yes.
- 15 **Q.** Can you describe what was said or done?
- 16 A. I'd have to be happy, smile in the pictures, make it seem
- 17 like I wanted to be doing this. Anything that the Defendant
- 18 | wanted he'd say I had to do or else the deal wouldn't go
- 19 through.
- 20 **Q.** And if the deal didn't go through, then what?
- 21 A. You would have to make a new one. He'd threaten until you
- 22 | made a new one.
- 23 Q. In those responses about the deals perhaps not being
- 24 | satisfactory, did you ever witness the Defendant getting angry
- 25 with you?

- 1 **A.** Yes.
- 2 **Q.** And how would you know that he was angry?
- 3 A. Text messages, phone calls, making fake Instagram
- 4 accounts. Making fake Twitter accounts. All of the above.
- 5 Q. When you would go home for school breaks -- so, I presume,
- 6 | did you get a fall break?
- 7 **A.** Yeah.
- 8 Q. Did you get a Christmas break or winter break?
- 9 **A.** Yes.
- 10 \mathbf{Q} . When you would go home for those types of breaks, would
- 11 | you see the Defendant in person?
- 12 **A.** Yes.
- 13 **Q.** Under what circumstances?
- 14 A. Necessity, like, had to do it or else --
- 15 **Q.** [[[[[[[[[]]]]]]], I just want to make sure I understand. When
- 16 you say you had to do it, if you didn't what was the
- 17 | consequence?
- 18 **A.** A million different things, like, whatever he was feeling
- 19 that day. Whether it was, like, exposing everything to people.
- 20 | Sending pictures in an envelope unanimously to my parents,
- 21 friends. Reaching out to anyone that I got close to.
- 22 **Q.** When you would see him over breaks, you had mentioned the
- 23 Elkridge Country Club. Do you guys have a nickname for that,
- 24 like if you were going to meet there what you would call it?
- 25 A. Elk. Is that it?

- 1 (Laughter.)
- 2 **Q.** I'm asking you. Is that what you would sometimes refer to
- 3 it as?
- 4 **A.** Probably Elk, yeah.
- 5 (Laughter.)
- 6 Q. And you had mentioned that he had -- he would sometimes
- 7 | make a fake Instagram account?
- 8 A. Uh-huh.
- 9 **Q.** Do you remember what the handle or name of that fake
- 10 | Instagram account was?
- 11 | A. Something along the lines of [[[[[]]].
- 12 **Q.** Ms. Jarman, if we could re-pullup Government Exhibit 221,
- 13 page 168, please.
- 14 Do you recognize this?
- 15 **A.** Yes.
- 16 **Q.** What is that?
- 17 A. That's the Instagram account.
- 18 Q. In the profile, what I call a profile photo at the top
- 19 where the plus sign is, what is that?
- 20 **A.** My belly button and below.
- 21 **Q.** And at the bottom of the screen, you can see portions of
- 22 three photos. Do you recognize those?
- 23 A. Yes.
- 24 **Q.** Starting let's say with the middle one, who is that?
- 25 A. That's me.

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- 1 | Q. Do you know what the full photos of those look like?
- 2 **A.** Yes.
- 3 **Q.** Can you just describe what's depicted in those three
- 4 photos in general terms?
- 5 A. Yes. On the left a private part on an Xbox controller.
- 6 In the middle it's probably just a picture of me naked in bed.
- 7 And then on the right I can't really tell on the right.
- 8 \mathbf{Q} . Okay. The one in the middle, why are you smiling?
- 9 A. Forced. Or told I needed to smile in the pictures.
- 10 **Q.** Ms. Jarman, can you go to Page 141 of the same exhibit.
- 11 We can see a little more clearly those same three?
- 12 **A.** Yes.
- 13 **Q.** Can you tell, looking at the one at the far right, can you
- 14 | tell what that is?
- 15 **A.** Yes.
- 16 **Q.** What is that one?
- 17 **A.** My girlfriend.
- 18 **Q.** Do you know where she is and what she's doing?
- 19 A. It's in my room and it looks like it's my dog in the
- 20 background --
- 21 **Q.** Like where her hand is, it looks like your dog?
- 22 **A.** Yes.
- 23 **Q.** What kind of dog?
- 24 A. Golden Retriever.
- 25 **Q.** Okay. And with regard to -- you can clear the screen.

- With regard to that [[]][], I'm going to say the same word
- 3 | that you did, how and when would you see that page come up?
- 4 A. He'd -- if I wasn't responding, he'd request to follow
- 5 either my girlfriend or Pat on Instagram with that account.
- 6 Q. And is there a way with [[[[[]], like Instagram pages you
- 7 described before, to make that private or public?
- 8 **A.** Yes.

1

- 9 **Q.** And how is that done when you were shown the <code>[][][][]</code> page?
- 10 | Was it ever made public?
- 11 **A.** Yes.
- 12 **Q.** And how do you know that?
- 13 A. Because he would say that it went public.
- 14 $| \mathbf{Q}$. And what did that mean to you? If it's public, what could
- 15 | happen?
- 16 A. Anybody could stumble upon it and see it.
- 17 **Q.** If you tried blocking him on social media or ignoring his
- 18 | texts in college, would that same thing you described earlier
- 19 about trying to contact your friends occur?
- 20 **A.** Yes.
- 21 **Q.** Is there something in Snapchat, you mentioned earlier,
- 22 called a streak, right?
- 23 A. Yes.
- 24 **Q.** If you can just -- because we all had lunch -- can you
- 25 explain again what a streak is in terms of Snapchat with

- 2 A. It's how many days straight that you Snapchat with
- 3 | someone.
- 4 **Q.** Did you have a Snapchat streak with the Defendant?
- 5 **A.** Yes.
- 6 Q. And can you describe what, if any, preoccupation he had
- 7 | with a Snapchat streak with you?
- 8 A. Like, obsessive in a way. I'd say he cared about it more
- 9 than anything I'd say.
- 10 | Q. What about your other agemate friends, did they care about
- 11 | it?
- 12 A. Not really.
- 13 **Q.** With that, in the Snapchat app, is there something called
- 14 a Best Friends List?
- 15 **| A.** Yeah.
- 16 **Q.** What is that?
- 17 A. It's a list of eight people that you Snapchat the most
- 18 | throughout your day.
- 19 **Q.** Was the Defendant aware of a Best Friends List on your
- 20 Snapchat?
- 21 **A.** Yes.
- 22 **Q.** And what, if any, concerns did he have about that?
- 23 A. He wanted to be at the top of it or somewhere near the
- 24 top.
- 25 **Q.** To your knowledge, did he have any -- with that [[[[[[]]]]]

- 1 page -- any contact with your friends that you saw?
- 2 A. Yeah.
- 3 **Q.** And who was contacted with that <code>[[[[[]]]]]</code> page that you saw?
- 4 **A.** My girlfriend and my best friend.
- 5 **Q.** And your best friend is? I just want to make sure we're
- 6 talking about the right person.
- 7 **A.** Pat.
- 8 Q. He's the friend from [[[[[[[]]], not from Gilman?
- 9 **A.** Yes.
- 10 **Q.** In fact, just what state is Pat from?
- 11 A. Connecticut.
- 12 **Q.** Ms. Jarman, if we could pull up Government's Exhibit's
- 13 228.
- 14 | IIIIIIIIIIII, did you have Venmo?
- 15 **A.** Yes.
- 16 **Q.** Did the Defendant have Venmo?
- 17 **A.** Yes.
- 18 $| \mathbf{Q}$. In looking at this, if we can scroll to the next page,
- 19 were you ever sent money via Venmo from the Defendant?
- 20 **A.** Yes.
- 21 **Q.** Can you describe the circumstances. Let me strike that
- 22 | for a second.
- 23 First, tell me some legit circumstances when you would
- 24 | receive Venmo?
- 25 A. Not involving this?

- 1 **Q.** Sure.
- 2 **A.** If you went out to dinner with someone and your friend
- 3 | bought you food you would Venmo them for the food they bought
- 4 you.
- 5 **Q.** Now looking at this, under what circumstances would you
- 6 and the Defendant exchange money over Venmo?
- 7 **A.** If I knew that I was going over to his place or wherever
- 8 he was staying and I would ignore him for a while, I thought
- 9 that it was going to be bad anyway so I might as well make some
- 10 money off of it.
- 11 **Q.** So, Ms. Jarman, if we could highlight those first three
- 12 April.
- So in April of 2019 -- and I'm going to do the quick math
- 14 | for you. You're born in 2001, so in April of 2019 how old are
- 15 you?
- 16 A. Eighteen.
- 17 **Q.** When you see this "for an incomplete deal," what is that?
- 18 A. Deal wasn't complete.
- 19 **Q.** Tell me what you mean by what deal? What kind of deal?
- 20 **A.** One of the deals that was talked about earlier that we
- 21 made.
- 22 **Q.** Involving the sending of images?
- 23 A. Yes.
- 24 **Q.** And what about "Just unblock me and we won't have to talk
- 25 until Friday night," what is that?

- 1 A. To unblock him on whatever I had blocked him on and his
- 2 | way of justifying that is that he won't talk to me until Friday
- 3 | night and he'll leave me alone as soon as I unblock him.
- 4 **Q.** Is that an example of a deal?
- 5 **A.** No.
- 6 **Q.** Is that sort of a bargain?
- 7 **A.** Yes.
- 8 Q. Thank you, Ms. Jarman. You can unhighlight that portion.
- 9 If we can go to March 17th at the bottom of the page,
- 10 Ms. Jarman. You can highlight all of those. Thank you.
- 11 These are from January and March of 2020. So this is
- 12 | you're still a senior in high school?
- 13 **A.** Yes.
- 14 **Q.** And on March 17th it says, "Block me on everything and we
- 15 | will go back to me asking your friends to text you and if you
- 16 | don't respond I will send out our stuff."
- 17 | Can you tell me what that means?
- 18 A. I blocked him on one or two things and this is his way
- 19 of -- because I probably blocked him on Snapchat and text
- 20 messages so this was his last resort of getting into contact
- 21 | with me. So he said if you do this, another threat, that he'll
- 22 | text my friends and then he'll send out everything, all of the
- 23 naked pictures.
- 24 **Q.** And the next one, "Respond."
- 25 A. Another.

- 1 | Q. And the next one, "I'm done with your bullshit, fix text,
- 2 respond on Snap. My next step is to have your friends text
- 3 you. Hope you're ready for that."
- 4 A. Pretty similar to the first one. Yeah.
- 5 **Q.** "My next step is to contact Emma."
- 6 Who is, you don't have to give last names, who is Emma,
- 7 and who was she in March of 2020?
- 8 A. She was a girl that I was interested in.
- 9 **Q.** Was she a high school student as well?
- 10 **A.** Yeah.
- 11 **Q.** At a different school obviously since Gilman is all boys?
- 12 **A.** Yes.
- 13 **Q.** Did the Defendant know that you were interested in her?
- 14 **A.** Yes.
- 15 **Q.** Were you interested in her romantically?
- 16 **A.** Yes.
- 17 | Q. [[[[[[[[[[]]]]]]]], would you ever do anything to return the
- 18 | Defendant's affections for you?
- 19 **A.** Yes.
- 20 **Q.** Can you tell me what you would do?
- 21 A. Touch him or send him text messages that made it seem like
- 22 I was also interested.
- 23 **Q.** And why would you do that?
- 24 A. The Defendant said that in like whatever deal we made that
- 25 that was a part of it. Stuff like that.

- 1 MS. MCGUINN: Ms. Jarman, if we could bring up
- 2 Government's 209, please.
- 3 BY MS. MCGUINN:
- 4 Q. Take a minute to look at that. Do you recognize the
- 5 picture in the profile at the top?
- 6 **A.** Yes.
- 7 **0.** Who's that?
- 8 A. That's me.
- 9 **Q.** You as an over-18 adult?
- 10 **A.** No.
- 11 **Q.** Have you seen this before?
- 12 **A.** Yes.
- 13 **Q.** Have you seen this before, it's been shown to you; is that
- 14 | right?
- 15 **A.** Yes.
- 16 Q. And can you describe -- first of all, I guess I should
- 17 say, in looking at it can you orient yourself who is this text
- 18 | between?
- 19 A. Me and the Defendant.
- 20 | Q. And of the two, I'm going to call them bubbles, which
- 21 | color are you?
- 22 **A.** Gray.
- 23 **Q.** Okay. Do you have -- looking at this as it is just by
- 24 | itself, do you have any idea the date of this or the
- 25 approximate time frame? High school, college, something else?

- 1 A. High school.
- 2 **Q.** And what is occurring in this conversation?
- 3 A. He's asking me how do I get or how does he get me? And by
- 4 the looks of it -- I was probably intoxicated with the
- 5 | misspellings -- "but for me it's about getting jealous,"
- 6 like -- that's something else.
- 7 **Q.** And it says "Getting you jealous of what?" And when you
- 8 write, "If you fire with someone else." What does that turn of
- 9 phrase mean, "if you fire with someone else"? What does that
- 10 | term mean to you when you write that?
- 11 | A. I think it's probably just a misspelling.
- 12 \mathbf{Q} . Okay. What message were you trying to convey "if you fire
- 13 | with someone else"?
- 14 A. If I -- if you, like, mess with somebody else then, like,
- 15 that makes me want you more. Like, something like that.
- 16 Q. Can we scroll to the next page, please. Just take a
- 17 | second to orient yourself. Have you seen this one before?
- 18 **A.** Yes.
- 19 **Q.** Again, same question, which color bubble are you?
- 20 **A.** Gray.
- 21 **Q.** Which color bubble is the other person?
- 22 A. Blue.
- 23 **Q.** Who are you texting?
- 24 A. The Defendant.
- 25 **Q.** And it starts with, "You're on Snap now." And your

- 2 McDank's? We sort of talked about that before.
- 3 A. McDonald's.
- 4 **Q.** You wrote "touch my dick," what does that mean?
- 5 A. Like, in the deals it was I had to set up these things a
- 6 certain amount of times. I had to make it seem like I really
- 7 | wanted to go. That's just the way of setting it up.
- 8 Q. And at the bottom he's telling you to "Read Snap," again,
- 9 | "Read Snap." Can you describe what was happening there?
- 10 | A. Side -- side text to that, he probably didn't want to see
- 11 as evidence because Snap chats go away.
- 12 **Q.** So let's talk about that for a second because we didn't
- 13 before. Tell me about Snapchat in terms of its permanency?
- 14 | A. You have the option to save stuff but Snapchat goes away
- 15 after it's opened unless somebody decides to hit save for it.
- 16 Q. So if you and I were sending say, again, I'll use this
- 17 example. I take a picture of me and Ms. Hagan, and I send it
- 18 to you, does it stay on your phone forever?
- 19 **A.** No.
- 20 **Q.** Can you make it stay on your phone forever?
- 21 **A.** Yes.
- 22 **Q.** How?
- 23 A. If you hit the save button on it, but the other person
- 24 knows that you hit save on it.
- 25 **Q.** So if you hit save I will know you have kept my photo?

- 1 **A.** Yes.
- 2 **Q.** Is there sort of a workaround or a way to keep a Snapchat
- 3 | someone sends you without letting the other person know?
- 4 **A.** No.
- 5 MS. MCGUINN: Thank you, Ms. Jarman.
- 6 BY MS. MCGUINN:
- 7 **Q.** [[[[[[[[[]]]]]], at the end of your sophomore year did you
- 8 | return home from [[[[[[]]]]]?
- 9 **A.** Yes.
- 10 **Q.** What was your status in terms of dating with Riley at that
- 11 point at the end of your sophomore year?
- 12 A. We had just started dating.
- 13 **Q.** Did you have plans to travel anywhere for school during
- 14 | that particular summer?
- 15 **A.** Yes.
- 16 **Q.** And where were you going to be going?
- 17 A. London.
- 18 **Q.** Do you recall where you were going to be in London in
- 19 terms of schooling?
- 20 A. Yes, London School of Economics.
- 21 **Q.** Prior to traveling to London, so when you got home from
- 22 [[[[[[[[]]], prior to going that summer did you and Riley see each
- 23 other?
- 24 **A.** Yes.
- 25 **Q.** Did Riley travel to Baltimore to see you?

- 1 **A.** Yes.
- 2 **Q.** And did you go to her home?
- 3 **A.** Yes.
- 4 Q. And can you tell us where does she live, just in general,
- 5 | in terms of what part of the United States?
- 6 A. Connecticut.
- 7 | Q. While you were visiting her, did you go into New York City
- 8 at all?
- 9 **A.** Yes.
- 10 **Q.** For what purpose?
- 11 A. A Yankee's game.
- 12 **Q.** Even though you're clearly an Oriole's fan, I hope?
- 13 **A.** Yes.
- 14 **Q.** Okay, great.
- MS. MCGUINN: Ms. Jarman, can we please pull up 221.
- 16 And if we could please go to page 88.
- 17 BY MS. MCGUINN:
- 18 **Q.** [[[[[[[[]]]], I should have showed you at the beginning.
- 19 This is -- we show this earlier before lunch. This is that big
- 20 chat in 2022, just to remind you what you already described.
- 21 Showing you -- if we could highlight the bottom third
- 22 there, Ms. Jarman. The bottom third. Thank you.
- The words, the one that begins with "let me tell you," do
- 24 you recall that?
- 25 **A.** Yes.

- 1 **Q.** That was sent on June 7th of 2022?
- 2 **A.** Uh-huh.
- 3 **Q.** Can you describe what was going on in the context of this
- 4 particular portion of the text message?
- 5 A. I was going to see my girlfriend in Connecticut. And he
- 6 was saying that if I don't see him a shit ton he's going to
- 7 unleash hell, "ducking hell."
- 8 Q. It says "ducking" but.
- 9 **A.** Yes.
- 10 **Q.** What do you understand that to mean?
- 11 | A. All of the threats that he said, sending stuff out.
- 12 **Q.** What did you need to do?
- 13 A. See him. I had to see him.
- 14 **Q.** Did you, in fact, see him before you went to see Riley?
- 15 **A.** No.
- 16 **Q.** Showing you page 96. This is still on June 7th. Can we
- 17 | see the bottom of the bottom three, the gray ones, please,
- 18 Ms. Jarman.
- This is a few hours later. When it says, "Guess we'll see
- 20 | if anyone notices your tag before 7. Tired of your shit."
- 21 What do you understand when it says "guess if anyone sees your
- 22 tag"?
- 23 A. If you put, like, a username on something on Instagram,
- 24 that is a tag of tagging somebody and people can see that.
- 25 **Q.** If we can go, Ms. Jarman, to page 104. After the "still

- 1 here," if you can highlight that bottom part, please.
- 2 And this is still on June 7th about 20 minutes later.
- 3 He's asking for a video, is that fair?
- 4 **A.** Yes.
- 5 **Q.** And that middle one, what is, do you understand happened
- 6 | between "where's my video" and "no volume." You can take a
- 7 | moment to read it so you can answer.
- 8 A. So I had sent him a video and I had sent it with no volume
- 9 and only mediocre to him. But then he's saying when I come
- 10 | tonight I have to do anything, and I have to do it with a good
- 11 attitude.
- 12 **Q.** Okay. And is this in line of what you were discussing
- 13 before about deals?
- 14 **A.** Yes.
- 15 **Q.** And being told how to act?
- 16 **A.** Yes.
- 17 **Q.** Ms. Jarman, if we could move on to page 107. If you can
- 18 highlight the top two gray. Thank you.
- 19 This is still on June 7th, this is now a few hours later.
- 20 | "Hurry up. Strip fully in car. You can bring your clothes but
- 21 you need to be naked now."
- What happened?
- 23 A. I went wherever he was, and he's asking for more, for me
- 24 to get fully naked and walk in fully naked.
- 25 **Q.** If we can go to page 129, please. If you can highlight

- 1 the middle three gray ones.
- This is on June 10th, do you recall driving up to see
- 3 Riley?
- 4 **A.** Yes.
- 5 **Q.** What's occurring in these messages to you?
- 6 A. In our deal he told me to send a good video. Something he
- 7 | wanted. And I didn't do it and thought that I could just get
- 8 in the car and go to Connecticut and forget about doing that
- 9 and he clearly wasn't too happy about it. Asking if I can send
- 10 videos from a rest stop. Asked me not to mess this up. It's
- 11 | fucked.
- 12 **Q.** Page 133, please, Ms. Jarman. Those, all of the gray ones
- 13 at the bottom, please.
- 14 When it says "Cool, just passed the travel plaza in
- 15 | Jersey," what do you understand is happening there?
- 16 A. He's stalking my location.
- 17 **Q.** How?
- 18 A. Either on Snapchat or on the phone location.
- 19 **Q.** Okay. And at the bottom, if you can read that to
- 20 yourself: "Enjoy" -- especially the end, "Enjoy explaining
- 21 your picks on Insta to Riley." What do you understand that?
- 22 A. He's using the fake Instagram account to contact her.
- 23 **Q.** We can go to page 154.
- 24 While you were up in Connecticut, is that the first time
- 25 | meeting Riley's family?

- 1 **A.** Yes.
- 2 **Q.** Have you ever met her mom and dad before?
- 3 **A.** Yes.
- 4 **Q.** Without names, does she have siblings?
- 5 **A.** Yes.
- 6 **Q.** Did you get to meet them too?
- 7 **A.** Yes.
- 8 **Q.** On your night there, did you all go anywhere?
- 9 **A.** Yes.
- 10 **Q.** Where did you go?
- 11 A. I went out to dinner.
- 12 **Q.** Do you recall receiving text messages from the Defendant
- 13 | while you were at dinner?
- 14 **A.** Yes.
- 15 \mathbf{Q} . If you can orient yourself to this. Who is texting you?
- 16 A. The Defendant.
- 17 \mathbf{Q} . If we can scroll down even to the next page, Ms. Jarman.
- Do you recall these text messages coming to you while you
- 19 were at dinner with her family?
- 20 **A.** Yes.
- 21 **Q.** At the top it says, "I have to send to Riley now because
- 22 | you won't deal with this."
- 23 What do you understand that to mean?
- 24 A. It's my fault for all of this happening so the only
- 25 reasonable thing for the Defendant to do is to send pictures to

- 1 | my girlfriend of me naked.
- 2 **Q.** Can we scroll to the next page, please.
- 3 "Fuck boy, answer. Fucking answer my text. You are about
- 4 to throw out everything."
- What is throw out everything?
- 6 A. Throw out everything, he thought that, like, our
- 7 | relationship was or life.
- 8 **Q.** To you, was this a relationship?
- 9 **A.** No.
- 10 \mathbf{Q} . "Okay. I warned you. This is it. 10, 9, 8" -- can we
- 11 | scroll to the next page -- "7, 6, 5, 4, 3, 2, 1."
- Do you recall your phone buzzing at this time?
- 13 **A.** Yes.
- 14 **Q.** And at the bottom, "Okay. Sorry, I gave you a second
- 15 | chance and you didn't want it."
- 16 What did you understand was happening?
- 17 A. He thought that this was a second chance and that I would
- 18 | send him whatever he wanted.
- 19 **Q.** Okay. Can we --
- 20 A. Clearly didn't.
- 21 Q. -- go to the next one.
- "Sorry you started this, it's not too late. But you have
- 23 to act fast. Just sent her the 'hi.'"
- 24 What do you understand happened there?
- 25 A. You can DM people on Instagram. And he DM'd her saying

```
1 "Hi."
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- 2 **Q.** Next page, please. And who is that?
- 3 **A.** That's her Instagram page.
- 4 **Q.** What do you understand a DM to be? Just in case people
- 5 don't know.
- 6 A. Just -- well, it's direct message. So it's just a message
- 7 | you send to somebody else's account from yours.
- 8 **Q.** We can clear the page. Thank you, Ms. Jarman. If we can
- 9 | go to page 195 of that exhibit. I'm sorry.
- 10 If you take a minute to orient yourself. This is about
- 11 | four days after the dinner text on June 14th. If you just take
- 12 a moment to orient yourself.
- 13 If we start at the second line, "Maybe if I just send Pat
- 14 or Riley a little message."
- 15 What do you understand that?
- 16 **A.** Another threat that we talked about earlier, girlfriend
- 17 and best friend.
- 18 **Q.** "Or Wallace before you head to London."
- 19 A. Me and Wallace were going to live together in London for
- 20 London School of Economics.
- 21 **Q.** And you respond to him that you're eating and you'll be
- 22 over. And his response to you is, "Hurry up. Anything goes.
- 23 Text when you get here but you know what you have to do before
- 24 getting out of your car."
- 25 What do you know that to mean?

- 1 A. Be naked before you get out of the car.
- 2 **Q.** McCrickards, who is that?
- 3 A. The house that he would house-sit.
- 4 $| \mathbf{Q}_{\cdot} |$ Do you know those individuals personally?
- 5 A. I do not.
- 6 **Q.** You just know their name and their home?
- 7 **A.** Yes.
- 8 Q. You knew where to go?
- 9 A. Yeah.
- 10 **Q.** Would he babysit there with some frequency?
- 11 **A.** Yeah.
- 12 **Q.** So this was not your first time going there?
- 13 **A.** No.
- 14 **Q.** Okay. Scrolling to the next page, please.
- 15 "Bring shirt. Leave clothes in car. You can bring your
- 16 | shirt in but walk in naked and put it on for the picture."
- 17 Is that consistent with what you recall happening that
- 18 | day?
- 19 **A.** Yes.
- 20 **Q.** And do you recall going to the McCrickards?
- 21 **A.** Yes.
- 22 **Q.** On those occasions -- you can clear the screen, please.
- 23 When you would go to the McCrickards home or when you
- 24 | would go to the DeMuth's home at this time in 2022, what would
- 25 happen when you went there?

- 1 A. I would go -- go straight upstairs to, like, the bathroom.
- 2 He would tell me to, like, get in the shower and he'd, like,
- 3 wash me off and start touching me so . . .
- 4 Q. Okay. That was around June 14th, approximately how long
- 5 after that do you think you went to London?
- 6 A. Maybe one or two weeks I'd say.
- 7 **Q.** How long were you in London for, the class you took at the
- 8 | School of Economics?
- 9 A. Three and a half weeks.
- 10 **Q.** I think you mentioned this, but who did you live with
- 11 | while you were there?
- 12 | A. Wallace and then two friends from [[[[[[[]]]] and their
- 13 | friends from home.
- 14 **Q.** And Wallace is Wallace Halpert?
- 15 **A.** Yes.
- 16 **Q.** Did he attend [[[[[[[]]]]]]] or go to a different school?
- 17 A. He went to a different school.
- 18 | Q. While you were there, did your girlfriend Riley also
- 19 attend a class that summer?
- 20 **A.** Yes.
- 21 **Q.** Who did she live with? You don't necessarily have to say
- 22 names but who were those people?
- 23 A. 0000000 girls.
- 24 **Q.** Did you spend a lot of time with her while you were in
- 25 London?

- 1 **A.** Yes.
- 2 \mathbf{Q} . Did you have an iPhone with you while you were traveling?
- 3 **A.** Yes.
- 4 Q. The one with that same phone number we talked about
- 5 before?
- 6 **A.** Yes.
- 7 **Q.** And did anything happen to your iPhone?
- 8 **A.** Yes.
- 9 **Q.** Can you describe what happened?
- 10 **A.** On the second night we were out to dinner and somebody
- 11 | put, like, a magazine on the table and just swiped it.
- 12 **Q.** Who were you at dinner with?
- 13 A. Riley.
- 14 Q. When the magazine went down, did you have any idea what
- 15 | was happening?
- 16 A. No, I didn't.
- 17 **Q.** When it went up it was gone?
- 18 **A.** Yes.
- 19 **Q.** Did you have any other alternative to your iPhone that
- 20 | would allow you to have internet access or access to your
- 21 | iCloud/iPhone type of information?
- 22 **A.** Yes.
- 23 **Q.** What did you have?
- 24 A. An iPad.
- 25 **Q.** Your iPad, does it have its own cellular service or

- 1 | Wi-Fi-only device?
- 2 **A.** Wi-Fi.
- 3 \mathbf{Q} . In terms of that, we kind of saw in those text messages,
- 4 but is that your iCloud address?
- 5 **A.** Yes.
- 6 **Q.** That is your iCloud name?
- 7 **A.** Uh-huh.
- 8 \mathbf{Q} . If we can -- did there come a point in time that something
- 9 changed with regard to Riley and that iPad?
- 10 **A.** Yes.
- 11 **Q.** Can you tell us what happened?
- 12 A. I was at her place and then I was going out for the day
- 13 | with my friend. I left my iPad there.
- 14 **Q.** And I just want to make sure we're clear, there meaning
- 15 | London?
- 16 A. Yeah, at her place in London.
- 17 **Q.** Okay, great.
- 18 **A.** And then we were in the car and I received a call or my
- 19 | friend received a call on his phone from Riley and said, "Hand
- 20 | it to [[[[]," and said, "I found everything. We're done."
- 21 **Q.** If you can pull up 221 if you get a moment, page 246.
- 22 When you got passed that phone and heard her voice that
- 23 message, can you describe your reaction?
- 24 A. Just like freaking out, I'd say. Just frantic. Scared.
- 25 **Q.** Why were you frantic and scared?

- 1 A. I thought secret -- my secret was out about everything.
- 2 **Q.** And how did you handle that? She called you, what
- 3 happened next?
- 4 A. I went to her place and talked to her and revealed
- 5 everything.
- 6 **Q.** What did you explain to her about what she saw?
- 7 A. That -- that I had been getting sexually abused for five
- 8 years, six years and been scared shitless and didn't know what
- 9 to do.
- 10 $| \mathbf{Q}_{\cdot} |$ Did you tell her -- is what you told her the truth?
- 11 **A.** Yes.
- 12 **Q.** Did you lie to her at all?
- 13 **A.** Yes.
- 14 **Q.** What did you lie to her about?
- 15 **A.** That it was stopping or -- yeah, stopping.
- 16 Q. How did you handle this in terms of the Defendant and
- 17 Riley now having knowledge?
- 18 A. I thought in a way it would stop everything. Maybe
- 19 calling his bluff that now that somebody knows maybe he'll stop
- 20 but he just didn't.
- 21 **Q.** And you have in front of you this is again Government's
- 22 221, page 246, if you can orient yourself.
- 23 At the time that the iPad was discovered, had you gotten
- 24 yet a new iPhone?
- 25 **A.** Yes.

- 1 \mathbf{Q} . You did get one and were there any issues with it?
- 2 **A.** Yes.
- 3 **Q.** What were those?
- 4 A. It only worked in London because it only had a London SIM
- 5 card.
- 6 **Q.** Okay. A London SIM card?
- 7 **A.** Yes.
- 8 **Q.** If you look at this from June 21st, what do you recognize
- 9 | happening here?
- 10 **A.** This is right after I got back -- after I got the call
- 11 | probably, and I asked him what did he do.
- 12 \mathbf{Q} . Okay. Can you scroll down to the next page, please.
- When you wrote, "She goes, 'I know who Mister is,'" how
- 14 did you have the Defendant saved in your icloud, or excuse me,
- 15 in your iPad?
- 16 A. His contact was just Mister.
- 17 **Q.** Can you scroll to the next page, please.
- Can you scroll to the next page, please.
- And the next one, please. One more. One more. Sorry.
- 20 One more. Sorry, we have to get past images, I apologize.
- Is that your text, "Holy shit, Riley just said she saw
- 22 everything on my iPad."
- 23 A. Yes.
- 24 **Q.** And how would you describe the Defendant's reaction when
- 25 you told him that?

- 1 A. Clueless to, like, what's going on.
- 2 **Q.** Can we scroll down another page.
- When you say "Relax, I'm going to talk to her." What is
- 4 | the context of that? Like, telling him to relax and "I'm going
- 5 to talk to her." What did you mean by that?
- 6 A. I was just scared what he was going to do, if he thought I
- 7 was the one that messed up.
- $8 \mid \mathbf{Q}$. If he thought you were the one that messed up?
- 9 **A.** Yeah.
- 10 \mathbf{Q} . And you sort of alluded to this. What, if anything, did
- 11 | you tell Riley about this relationship with the Defendant
- 12 | continuing from this point forward?
- 13 A. I said it would stop and that I've worked out some sort of
- 14 deal to make it just occasional once in a while friendship.
- 15 Just checking in once in a while.
- 16 **Q.** And I think you said that was not true?
- 17 **A.** Yeah.
- 18 **Q.** What happened? What actually happened, I guess I should
- 19 say?
- 20 **A.** The opposite, it probably got worse and worse I'd say.
- 21 **Q.** Towards the end of your time in London, did your parents
- 22 | come to visit?
- 23 A. Yes.
- 24 **Q.** And did you and Riley meet them anywhere in particular?
- 25 **A.** Yes.

- 1 **Q.** Do you remember where?
- 2 **A.** A tea and crumpet place.
- 3 **Q.** A tea and crumpet place?
- 4 A. Yeah.
- 5 **Q.** Who made the recommendation for the tea and crumpet place?
- 6 A. The Defendant.
- 7 $| \mathbf{Q}$. And while you were there, do you recall how you were
- 8 acting?
- 9 A. Happy for the start of it all, I'd say.
- 10 \mathbf{Q} . You were happy at the start of it all and then did
- 11 | something change?
- 12 **A.** Yes.
- 13 **Q.** What changed?
- 14 **A.** The Defendant asked my parents to get some jam from the
- 15 place because he liked it, and I freaked out, knowing Riley was
- 16 | right there and just knowing everything.
- 17 **Q.** How did you know about the jam? Like, you said the
- 18 Defendant --
- 19 A. He asked my parents.
- 20 **Q.** And do you know if those jams were ever purchased, like
- 21 while you were there, were the jams ever bought?
- 22 A. I'm not sure.
- 23 **Q.** Okay. After or during your time in London with Riley, did
- 24 you guys travel other places other than London?
- 25 **A.** Yes.

- 1 **Q.** Can you name some of the places that you got to see?
- 2 **A.** Amsterdam, Paris were the two.
- 3 **Q.** Those were the two?
- 4 **A.** Yes.
- 5 **Q.** After your class, did you return home to Baltimore?
- 6 **A.** Yes.
- 7 **Q.** Upon returning home, did you see the Defendant in person?
- 8 **A.** Yes.
- 9 **Q.** And what, if anything, occurred in terms of handling
- 10 | things now that Riley knew what had happened?
- 11 | A. Nothing, I'd say. It was worse, if anything. It just --
- 12 | it was now having to hide it from my girlfriend who I'd be
- 13 around all of the time and that just only caused more problems.
- 14 Q. Again, [[[[[[[[[[]]]]]]]], did you feel you had a choice in the
- 15 | matter in how you related to the Defendant at that time?
- 16 A. No.
- 17 **Q.** Your junior year at [[[[[[[]]]], you return in the fall of
- 18 | 2022?
- 19 **A.** Yes.
- 20 **Q.** How are things with Riley at that point?
- 21 A. Shaky. Good, but shaky I'd say.
- 22 **Q.** Were you able to respond to the Defendant during that time
- 23 | while you were away at school?
- 24 A. Not as frequently.
- 25 **Q.** Did you try ignoring him?

- 1 **A.** Yes.
- 2 **Q.** Did you trying blocking him?
- 3 **A.** Yes.
- 4 **Q.** What would happen?
- 5 **A.** Same. Same thing that was happening before.
- 6 **Q.** Can we pull up Government's Exhibit 211. Can you take a
- 7 | minute to orient yourself and see if you recognize what this
- 8 is.
- 9 What is this?
- 10 | A. It's a group chat with me and my best friend from home,
- 11 James Schloeder.
- 12 **Q.** Let's get into that just for a minute. Mr. Schloeder, how
- 13 long have you known him?
- 14 A. Our parents were best man and best woman at his parents'
- 15 wedding. So since birth.
- 16 **Q.** In utero even?
- 17 **A.** What?
- 18 **Q.** In utero even, like before you were even born you were
- 19 destined to be friends?
- 20 **A.** Oh, yes.
- 21 **Q.** And who is that photograph of?
- 22 A. Myself and James.
- 23 **Q.** And how old are you in that photo?
- 24 **A.** Young.
- 25 **Q.** Can you tell where you are?

- 1 A. I believe Pepe's or Italian Gardens.
- 2 \mathbf{Q} . And this text message, if we can just scroll to the next
- 3 page, please.
- 4 Do you recall having these text conversations, these
- 5 three-person text conversations with James and the Defendant?
- 6 **A.** Yes.
- 7 **Q.** What, if anything, would occur during these text messages?
- 8 A. It was his way of talking to me, like, getting James
- 9 involved and sending various things in these group chats that
- 10 | would attempt to make me scared of what he was doing.
- 11 **Q.** If I say the name -- if I say the words "animal puzzle,"
- 12 | what does that mean to you?
- 13 **A.** He would send a picture of me, like a close up of some
- 14 part of my private area to James and James would usually ask,
- 15 | "What is that?" and he'd say "It's a puzzle. You got to figure
- 16 | it out."
- 17 **Q.** If we can scroll to page 32, please. Do you recognize
- 18 | this?
- 19 **A.** Yes.
- 20 **Q.** And to orient us, this was September of 2021. What is
- 21 going on here?
- 22 **A.** I'm not responding. And he's saying he'll send another
- 23 | clue to this puzzle. And it's a picture of my penis.
- 24 **Q.** You can scroll to the next page. Just because you called
- 25 him James, who's Jimmy?

- 1 A. James.
- 2 **Q.** If you can scroll one more page.
- That blue line over the top of you, does the actual
- 4 picture have a blue line over it?
- 5 **A.** No.
- 6 **Q.** Who put the blue line over it?
- 7 A. The Defendant.
- 8 Q. Thank you, Ms. Jarman.
- 9 Where you able to ignore home over the Thanksgiving break
- 10 of 2022, if you recall?
- 11 **A.** Yes.
- 12 **Q.** Ms. Jarman, if we could pull up 221, please, again.
- 13 | Page 647.
- 14 Who is this?
- 15 A. That's my close friend from school, Pat Ciquera.
- 16 **Q.** If we can scroll down one page.
- 17 When it says, "Done. Just requested Pat."
- 18 What do you understand happened here in November of 2022?
- 19 A. He asked to follow Pat with that [[[[[]]] account.
- 20 **Q.** Were you responding to him? You can scroll to the next
- 21 page.
- 22 **A.** No.
- 23 **Q.** On page 659, please, Ms. Jarman.
- Do you recognize this screenshot?
- 25 **A.** Yes.

```
Q.
        Scroll down one page, please.
                                       One more, I'm sorry.
1
2
        Who is that a screenshot of?
3
        Me and Riley.
  Α.
4
        Scroll down one more page.
   Q.
5
        What's going on here? "Okay. Sure. This is going to go
  well."
```

- He's saying that this, this path I've taken, which is try 7 8 to completely ignore him is going to end up going horribly
- 9 wrong.

6

- Did the Defendant ever leave voice messages for you on 10 your iPhone? 11
- 12 Yes. Α.
- 13 Do you recall when you met with investigators giving them 0.
- 14 your iPhone and your iPad?
- 15 Α. Yes.
- 16 And if we play some voicemails, will you be able to 17 identify the voice that you hear?
- 18 Α. Yes.
- 19 MS. MCGUINN: Your Honor, at this time we have a 20 transcript. It's five pretty brief calls, but we have a 21 transcript if we can pass that to the jury.
- THE COURT: Hand them to the clerk. 22
- Husher. 23 Come to the bench, Counsel.
- 24 (Whereupon, the following conference was held at the
- 25 bench:)

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THE COURT: We're still on the record.
                                                 We're at the
       This is the first time we are going to do this during
this trial. I don't know if there are going to be multiple
times, but let's just be clear on the drill.
    Remember, lawyers are never to approach the jury.
                                                        If you
have something to hand the jury, like transcripts and so forth,
they get delivered to the courtroom deputy. She's the only one
that actually hands anything to jurors or collects anything
from jurors.
    Number two, I need some record made on whether or not
these transcripts have been shown to defense counsel and if
they have what defense counsel's position is with respect to
them.
        MS. MCGUINN:
                       They have been given to counsel.
        MR. NIETO:
                    No objection.
        THE COURT:
                    Very good.
        MR. PROCTOR:
                      Transcripts, of course, are not
evidence.
         THE COURT: I will make that clear as part of my
standard instruction the first time we hand out a transcript,
but I think we're otherwise ready to go. Where are they?
They're in the cart back there?
        MS. MCGUINN: They're in the cart. I can wheel them
right up here, Your Honor.
```

THE COURT: The clerk can just join you back at that

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station and -- can you assist, Becca, if you would in handing
 1
 2
    out the transcripts to the jurors.
 3
             MR. PROCTOR: Your Honor, I believe these transcripts
    are tabbed within a bigger set.
 4
 5
             THE COURT: Oh.
             MR. PROCTOR: So to tell the jury not to flip to any
 6
 7
    other tabs.
             THE COURT: Yeah, but have you looked at all of the
 8
 9
    transcripts?
10
             MR. PROCTOR:
                           We have.
11
             THE COURT: I want to make sure there's not some --
12
             MS. MCGUINN:
                           No --
13
             THE COURT: So no lurking issue probably but for now
14
    we'll just focus on one tab. And what tab is it?
15
             MS. MCGUINN:
                           Five.
             THE COURT: So they're to look at Tab 5 and only Tab
16
17
        When we're done with this you'll say that you're done, and
    you'll say something like, Your Honor, it's okay for the clerk
18
19
    to now collect the transcripts.
20
             MS. MCGUINN: Yes, Your Honor.
21
             THE COURT: And then they'll just automatically go
22
    over.
23
             MS. MCGUINN: Yes, Your Honor.
24
             THE COURT: We'll get into that routine. Thank you.
25
    Here we go.
```

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MR. PROCTOR: Thank you, sir.

(Whereupon, the bench conference was concluded.)

THE COURT: Now, ladies and gentlemen, as happens from time to time during a trial evidence can come to you in many forms. The Government is now going to present evidence to you that is in an audio form only. You're going to hear it with your ears. To aid you while you are listening to the audio portion, I've authorized them to pass out transcripts to you. And the clerks are handing transcripts to you right now while I'm speaking. It's actually a binder full of transcripts.

The only transcript that's relevant right now, the only one that you should look at, is at Tab 5. So once you get your binder, open it up and find Tab 5, only Tab 5, and that will aid you perhaps as you follow along when you're listening.

Now, here's the important point, what's actually evidence in the case is what you hear. If you hear something different from what is on the transcript. It's what you hear that is evidence. The transcripts technically are not evidence, they're just an aid to assist you in your listening. I know it's kind of a subtle difference, it's legally, technically important so pay attention. What you hear is the evidence. You're hearing, though, can be assisted by what you read in the transcript. Tab 5.

MS. MCGUINN: Your Honor, may I approach the witness so he also has a transcript?

```
THE COURT: The clerk will hand him a transcript.
 1
 2
   Hand it to the clerk.
 3
        How long is this recording?
            MS. MCGUINN: There's seven calls, Your Honor.
 4
                                                           In
 5
   total maybe two minutes. They're all very, very short calls.
            THE COURT: Seven calls but a total all together of
 6
 7
   about two minutes or so --
            MS. MCGUINN: Yes, they're very short.
 8
 9
            THE COURT: -- of audio. One call is going to end and
10
   then the next one is going to pick it, is that it?
11
            MS. MCGUINN: Yes, I'm just going to identify them by
12
   exhibit number if that's okay.
            THE COURT: Okay.
13
14
            MS. MCGUINN:
                          Thank you. We can play Government's
   Exhibit 195 which is a call from March 3rd of 2019.
15
        (Audio playing.)
16
17
   BY MS. MCGUINN:
18
        19
   be specific, March 3rd of 2019, how old were you?
20
   Α.
        Seventeen.
21
   Q.
        What do you understand, "Can we take care of what we
22
   talked about yesterday?"
23
   Α.
        Some deal that we talked about the day before.
24
   Q.
        And just so we're clear, the deals that you've talked
25
   about, are those specific types of deals?
```

- 1 **A.** Yes.
- 2 | Q. We can play Government's Exhibit 196 which is a call from
- 3 November 6th of 2021.
- 4 (Audio playing.)
- 5 **Q.** We can play Government's 197 which is November 23rd of
- 6 2022.
- 7 (Audio playing.)
- 8 \mathbf{Q} . Can you explain a little bit of the context of that call?
- 9 Let's start with "It's been a week of this and I'm kind of
- 10 losing my mind."
- 11 THE COURT: Did we lay the fundamental foundation who
- 12 | the participants are?
- 13 MS. MCGUINN: I apologize. Yes, Your Honor.
- 14 BY MS. MCGUINN:
- 15 \mathbf{Q} . Whose voice are you hearing in the calls we just played?
- 16 A. The Defendant.
- 17 **Q.** And these were taken from your iPhone?
- 18 **A.** Yes.
- 19 **Q.** And when it says, "It's been a week of this," what is
- 20 | this?
- 21 A. Me not talking to him.
- 22 **Q.** When it says, "To touch base and figure shit out," what
- 23 does that phrase mean to you?
- 24 A. Make another deal.
- 25 Q. If we can play -- I'm trying to track my right date, I

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Government's exhibit -- I think we're at 198, thank
apologize.
you, which is a November 24th, of 2022?
        THE COURT: Exhibit -- stop. Hold on.
                                                Which -- I'm
taking that the exhibit number is in the far left column.
        MS. MCGUINN:
                      No, Your Honor. That's just -- that's
just the way we're tracking it, how it proceeded on his phone.
        THE COURT: So what exhibit are we in right now?
        MS. MCGUINN: This exhibit is number 198.
        THE COURT: So Exhibit 198 has one, two, three, four,
five, six, seven, eight segments?
        MS. MCGUINN: Yes.
                            Wait.
                                   I'm sorry, Your Honor.
                                                           So.
Your Honor, the number column is the Government's way of
delineating which -- where it was on the voicemail.
                    Okay. So there's no -- private channel.
        THE COURT:
     (Whereupon, the following conference was held at the
bench:)
        THE COURT: So the Government has a lot of
responsibilities here and sometimes it's like juggling.
                                                        And
the coherence of your presentation in my judgment with respect
to all of this is just fine. But you've also got to make a
clear record of what it is that we're listening to. And I'm
not sure that we are in good shape in that regard. So let's
start at basics. This is all Exhibit 198. The Government's
Exhibit 198; am I right, Ms. McGuinn?
```

No, Your Honor. There are -- excuse

MS. MCGUINN:

```
me -- eight, eight separate phone calls. The transcript covers
 1
 2
    all eight of them because they are so short so each call is a
 3
    separate exhibit. The transcript just goes along with each
    call.
 4
 5
             THE COURT: Okay. So what are the exhibit numbers for
    each of the eight calls?
 6
 7
             MS. MCGUINN: Government's Exhibit 195 which was the
    first call on March 3rd.
 8
 9
             THE COURT: That's "Yo, can we take care of what we
10
    talked about yesterday. Thanks, bye."
11
             MS. MCGUINN: Yes.
12
             THE COURT: That's government's exhibit number?
13
             MS. MCGUINN:
                           195.
14
             THE COURT: 195. And then from there, take me through
15
    the exhibits.
16
             MS. MCGUINN: The next call, which was, "[[[[[]], what
17
    the actual hell," that was Government's Exhibit 196. That's
18
    the second call, which is on November 6th of 2021.
19
             THE COURT: Okay. Let's get each one of these
20
    designated.
21
             MS. MCGUINN: Are you ready for me to proceed?
22
             THE COURT: Absolutely.
23
             MS. MCGUINN: I'm sorry, Your Honor. The next exhibit
24
    is Government's 197 which we were just discussing.
25
             THE COURT: That's "Hey [[][][".
```

```
MS. MCGUINN:
                           Which was on November 23rd of 2022.
 1
 2
         "Hey [[[]], can you give me a call back."
 3
             THE COURT: Okay.
                                Next.
                           Next is Government's 198, which occurred
 4
             MS. MCGUINN:
    on November 24, 2022, "IIIII, can you give me a call back."
 5
             THE COURT: Got it. Next exhibit.
 6
 7
             MS. MCGUINN: 199, which is a call on November 27th of
    2022, begins "Hey [[[[]]." That was Government's 199.
 8
 9
             THE COURT: Next.
             MS. MCGUINN: Exhibit 200 also occurred on
10
11
    November 27, 2022. It begins with the word, "Oh, hey, yeah,
12
    sorry."
13
             THE COURT: Got it.
                                  Next.
14
             MS. MCGUINN: Government's Exhibit 201 is also a
    November 27, 2022 call, which begins with "Hey, 11:03."
15
16
             THE COURT: Got it.
17
             MS. MCGUINN: Lastly, Government's 202, which is on
18
    January 16 of 2023, begins with "DDDD, you really."
19
             THE COURT: What was that number again?
20
             MS. MCGUINN:
                           202.
21
             THE COURT: Thank you. Okay. All of these exhibits
22
    have now been referenced on the record here in court under our
23
    local rule. They, not having drawn any objection at their
24
    initial reference, they are all now admitted, and you may work
25
    with them as you wish.
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MS. MCGUINN:
                        Thank you, Your Honor.
 1
 2
            THE COURT: We'll come off the private channel.
 3
        (Whereupon, the bench conference was concluded.)
            THE COURT:
                      You may proceed.
 4
   BY MS. MCGUINN:
 5
 6
        7
   which begins with the words "Hey [[[]]," that was on
 8
   November 23rd of 2022, which is Government's Exhibit 197.
 9
        Ms. Jarman, if we could play Government's Exhibit 198,
10
   which is the fourth call, which is November 24th of 2022.
11
        (Audio playing.)
        Government's Exhibit 199, which is also a November 27th,
12
13
   2022 call.
              Begins with the words "Hey [[[]]."
14
        (Audio playing.)
        So to give some context before I move to the next call.
15
16
   17
   you visit him in November of 2022 when you went home for break?
18
        No.
   Α.
19
        Moving to the next call, which is also November 27th,
   Q.
20
   2022, Government's Exhibit 200 begins with "Oh, yeah."
21
   could play that Ms. Jarman.
22
        (Audio playing.)
23
        Ms. Jarman, if we could play Government's Exhibit 201,
24
   which is also November 27th, 2022 call, begins with the words
25
   "Hey," at 11:03.
```

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        (Audio playing.)
 1
 2
        Q.
 3
   calls -- sorry, three calls on November 27, did you ever return
 4
   those calls?
 5
   Α.
        No.
        Did you ever text him or contact him in response?
 6
 7
        No.
   Α.
        And our last call, which is Government's 202, occurred on
 8
   0.
 9
   January 16th of 2022. Ms. Jarman, if we could play that
   Government's Exhibit 202.
10
11
        (Audio playing.)
12
            THE COURT: Are we ready to collect the transcripts?
13
            MS. MCGUINN: We are, Your Honor. Yes, thank you.
14
            THE COURT: Clerk will collect the transcripts. You
   can close them up, ladies and gentlemen.
15
16
        Next question.
17
            MS. MCGUINN: Thank you.
   BY MS. MCGUINN:
18
19
        IIIIIIIIIII, in January of 2023, did you learn of the
20
   change in the Defendant's status in working at Gilman?
21
   Α.
        Yes.
22
   Q.
        How were you contacted about that?
```

- 23 Α. Jack Stuzin called me.
- 24 And did you have any contact with the Defendant around
- 25 that time?

Ronda J. Thomas, RMR, CRR - Federal Official Reporter

- 1 **A.** Yes.
- 2 **Q.** Can you describe the nature, in other words, like a voice
- 3 call, text, Twitter, whatever? And how you made contact and
- 4 | what was discussed?
- 5 A. Snapchat saying that, finally, like, it's over. Saying
- 6 something along the lines of, we can't talk anymore, you got to
- 7 delete everything.
- 8 Q. Okay. Just to be clear, who said we need to delete
- 9 everything?
- 10 **A.** I did.
- 11 **Q.** At the end of that week, do you recall hearing from your
- 12 parents?
- 13 **A.** Yes.
- 14 **Q.** Did you see them?
- 15 **A.** Yes.
- 16 **Q.** Where?
- 17 A. My dad drove up to [[[[[[]]]]].
- 18 **Q.** Was anyone with him?
- 19 **A.** Yes.
- 20 **Q.** Who?
- 21 **A.** But I did not see her. It was my mom.
- 22 **Q.** Okay. And can you describe what happened when your
- 23 parents arrived?
- 24 A. My dad and I went to Panera, and I told him everything.
- 25 **Q.** And when you say you told him everything, is it consistent

- 1 | with what you testified here today?
- 2 **A.** Yes.
- 3 **Q.** And after speaking with your dad, do you recall coming to
- 4 | Baltimore about a week later --
- 5 **A.** Yes.
- 6 **Q.** -- and meeting with investigators?
- 7 **A.** Yes.
- 8 **Q.** Were you interviewed?
- 9 **A.** Yes.
- 10 **Q.** Did you turn over your devices to law enforcement?
- 11 **A.** Yes.
- 12 **Q.** And, Ms. Jarman, if we could pull up one more exhibit,
- 13 please, that would be again Government's 248.
- 15 | show this to you. Do you recognize this?
- 16 **A.** Yes.
- 17 **Q.** What is that?
- 18 A. Fake Twitter that the Defendant made.
- 19 **Q.** Where had you seen that before?
- 20 | A. He would send it to me as a threat somewhere.
- 21 Q. After you turned over your devices to law enforcement --
- 22 | thank you, Ms. Jarman -- did you return to [[[[[[[]]]]]]]?
- 23 A. Yes.
- 24 **Q.** [[[[[[[[[]]]]], after you turned 18, your junior year in high
- 25 school, would you describe your relationship with the Defendant

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- 2 **A.** Yes.
- $3 | \mathbf{Q}$. In what way?
- 4 | A. The sexual part of it.
- 5 **Q.** How emotionally?
- 6 **A.** No.
- 7 \mathbf{Q} . Why not? Or why or why not?
- 8 A. It was only one-sided.
- 9 **Q.** Explain that to me?
- 10 | A. There wasn't a time where I ever wanted it to be
- 11 | happening, but I felt as though I had to or else it would never
- 12 | end.
- 13 **Q.** Okay. Were you dating the Defendant?
- 14 A. No.
- MS. MCGUINN: Your Honor, I have no other questions
- 16 | for [][[][][][][].
- 17 THE COURT: Thank you. We'll take a recess.
- 19 but you've not been excused.
- 20 Ladies and gentlemen, during this recess do not discuss
- 21 | the case with anyone. Do not discuss the case even among
- 22 yourselves. Do not allow yourselves to be exposed to any news
- 23 articles or reports that touch upon this case or the issue that
- 24 | it presents or any articles or reports that relate to any of
- 25 the participants in the case. Avoid all contact with any of

```
the participants in the trial. Do not make any independent
 1
 2
   investigations of the law or the facts of the case. Do not
 3
   look up anything on the internet. Do not consult an
 4
   encyclopedia or a dictionary. Ten minutes. Take the jury out.
 5
            THE CLERK: All rise for the jury.
        (Jury exits at 3:28 p.m.)
 6
            THE COURT: Ten minutes.
 7
            THE CLERK: All rise. This Honorable Court now stand
 8
 9
   in recess.
10
        (A recess was taken from 3:29 p.m. to 3:41 p.m.)
11
            THE COURT:
                      Ready for the jury?
12
           MR. NIETO:
                      Yes, Your Honor.
13
           MS. MCGUINN: Yes, Your Honor.
14
           THE COURT:
                     Bring the jury.
15
           MS. MCGUINN:
                        Do you want the --
16
           THE COURT: Please bring the witness back to the
17
   stand.
        Ladies and gentlemen, you'll recall before the break
18
   19
20
   will be cross-examined by an attorney for the Defendant.
21
        22
        Mr. Nieto, you may proceed.
23
           MR. NIETO:
                      Thank you, Your Honor.
24
                        CROSS-EXAMINATION
   BY MR. NIETO:
25
```

Ronda J. Thomas, RMR, CRR - Federal Official Reporter

- 1 Q. IIIIIIIIII, how old were you when you first got your cell
- 2 | phone?
- 3 A. Thirteen or 14.
- 4 Q. Thirteen or 14, right. So the picture that we saw of you
- 5 on Mr. Bendann's iPhone, that picture you of, that's a picture
- 6 of you at approximately that age; is it fair to say?
- 7 **A.** Yes.
- 8 Q. Right. And so that was the same number that you had since
- 9 | you were 13?
- 10 **A.** Yeah.
- 11 **Q.** Right. And so you were communicating with Mr. Bendann at
- 12 | that time via cell phones, correct?
- 13 **A.** Yes.
- 14 Q. So the photo that he has of you is just a remnant from at
- 15 | that time; is that fair to say?
- 16 **A.** Yes.
- 17 **Q.** And if we were to look at Government's Exhibit 221,
- 18 page 172, you were asked about this particular exhibit earlier
- 19 today, right? This afternoon?
- 20 **A.** Uh-huh.
- 21 **Q.** That's your girlfriend, correct?
- 22 **A.** Yeah.
- 23 **Q.** Now, obviously, that photo of her, that's not what she
- 24 looked like when you were dating her, was it?
- 25 **A.** No.

- 1 Q. No, that's a much younger photo of her?
- 2 A. Right.
- 3 **Q.** Mr. Bendann didn't take that photo, did he?
- 4 A. Screenshotted it.
- 5 **Q.** The photo of her that she's using as her Instagram
- 6 picture, that's not a photo that Mr. Bendann took, was it?
- 7 **A.** No.
- 8 Q. Right. Okay.
- 9 Now, sir, you played [[[[[[[[]]]]]]] in high school at Gilman; is
- 10 | that right?
- 11 **A.** Yes.
- 12 | Q. And you played [[[[[[[[]]]]]]]] at college in [[[[[[]]]]]]?
- 13 **A.** Yes.
- 14 **Q.** You were a member of a fraternity there as well?
- 15 **A.** Yes.
- 16 Q. IIIIIIII is a big part of your identity, is that fair to
- 17 say?
- 18 A. I quit. So no.
- 19 **Q.** Not now, right?
- 20 A. No, I quit senior year.
- 21 **Q.** Oh, you did.
- 22 **A.** Yeah.
- 23 Q. Well, because your mom played high school lacrosse, didn't
- 24 | she?
- 25 **A.** Yes.

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- **Q.** She played University of Richmond in college as well?
- 2 A. Partially.
- **Q.** And your sister played lacrosse in high school?
- **A.** Yes.
- **Q.** And then she played collegiately at Vanderbilt, fair?
- **A.** Yes.
- \mathbf{Q} . And then your grandfather, the person for whom you have
- 8 | your nickname, he played high school lacrosse, didn't he?
- **A.** Yes.
- **Q.** And he played at Hopkins and Cornell, those are D1
- 11 | schools?
- **A.** Yes.
- **Q.** And then your uncle, he played high school lacrosse?
- **A.** Yes.
- **Q.** The all-American?
- **A.** Yes.
- **Q.** He was in the University of Pennsylvania Athletics Hall of
- 18 Fame, correct?
- **A.** Yeah.
- **Q.** You have a variety of cousins who also compete in
- 21 | collegiate athletics, right?
- **A.** Yes.
- **Q.** So it was important to you, at least in high school,
- 24 | right, you're playing [[[[[[]]], right?
- **A.** Uh-huh.

- 1 \mathbf{Q} . And of course going to college did you receive a
- 2 scholarship?
- 3 A. Yeah.
- 4 **Q.** For [][[][]]?
- 5 **A.** Yes.
- 6 Q. So another important aspect of your collegiate experience,
- 7 | right?
- 8 A. Yeah.
- 9 **Q.** Did COVID interfere with your ability to compete in
- 10 | 00000000?
- 11 **A.** Yes.
- 12 **Q.** Okay. It did?
- 13 **A.** Yes.
- 14 | Q. Did you still have games?
- 15 **A.** Yes.
- 16 **Q.** And your stats were still maintained -- let me take a step
- 17 back. When you played collegiately, right, your stats, your
- 18 goals, your assists, those things from the [[[[[[[]]] games,
- 19 those are all tracked, right?
- 20 A. Yes.
- 21 **Q.** And those things are tallied and they're accumulated and
- 22 | that's part of your athletic college bio; is that fair to say?
- 23 A. Yes.
- 24 **Q.** All right. Now, you repeated the seventh grade at Calvert
- 25 School?

- 1 **A.** Yes.
- 2 **Q.** And of course when you returned to Gilman in eighth grade
- 3 you were a year older than everyone in your class?
- 4 A. Yeah.
- 5 $| \mathbf{Q}_{\cdot} |$ By all accounts, that made things difficult socially; is
- 6 that fair to say?
- 7 **A.** Yeah.
- 8 Q. But it presumably helped your athletic performance; didn't
- 9 | it?
- 10 A. I wouldn't say that.
- 11 **Q.** No? I mean, well, you were a year older than the other
- 12 kids in your grade, right?
- 13 **A.** Yeah.
- 14 $| \mathbf{Q}$. You were a year more physically fit than you were when you
- 15 were in seventh grade?
- 16 **A.** Yes.
- 17 **Q.** And you didn't stop practicing or playing [[[[[[[]]]]]] when
- 18 | you went to Calvert, did you?
- 19 **A.** No.
- 20 **Q.** In fact, part of your <code>[][][][][]</code>, right, you were on a
- 21 | traveling team?
- 22 **A.** Yes.
- 23 **Q.** Right. And so you had done tournaments in San Diego?
- 24 **A.** Yes.
- 25 **Q.** And other parts of the country. And so you travel around

- 1 playing [[[[[[]]]] and so that extra year of playing, right, that
- 2 helped you out performance-wise?
- 3 **A.** Sure.
- 4 Q. All right. Now, your parents, they were involved in your
- 5 | life when you were a child, right?
- 6 **A.** Yes.
- 7 **Q.** They were actively involved in your education?
- 8 **A.** Yes.
- 9 **Q.** Right. In fact, they both worked at the Gilman School,
- 10 | right?
- 11 **A.** My dad for the whole time, yeah.
- 12 \mathbf{Q} . But your mom worked there as well for certain parts,
- 13 | right?
- 14 **A.** Uh-huh.
- 15 \mathbf{Q} . And they were of course instrumental in the decision about
- 16 going to Calvert; do you remember that?
- 17 **A.** Yeah.
- 18 Q. And then upon your return, right, they were just as
- 19 focused on you on raising you as they were before; is that fair
- 20 to say?
- 21 **A.** Yes.
- 22 **Q.** They would attend your [[[[[[[[]]]]]]] games?
- 23 A. Yes.
- 24 **Q.** Soccer games as well?
- 25 **A.** Uh-huh.

- 1 Q. Right. When you went to college, they did the same thing?
- 2 **A.** Yep.
- 3 **Q.** When you were in either middle school or high school you
- 4 ran something called [[[[[[[[[]]]]]]]]; is that correct?
- 5 **A.** Yes.
- 6 **Q.** And that was a program on campus for younger students
- 7 | where sort of like a daycare of sorts with athletics?
- 8 A. Not on campus, no.
- 9 **Q.** It wasn't on campus?
- 10 **A.** No.
- 11 $| \mathbf{Q}$. Was it when you guys were living on campus?
- 12 A. It was a campus house, but we didn't live on campus.
- 13 \mathbf{Q} . So the IIIIIIIIIII, where was that held?
- 14 A. At our house across the street.
- 15 **Q.** Okay. Part of campus housing?
- 16 **A.** Yes.
- 17 **Q.** But not technically on the Gilman campus?
- 18 **A.** Yeah.
- 19 **Q.** Okay. All right. In fact, I believe you and your family
- 20 | had asked Mr. Bendann to assist you with that at certain parts,
- 21 right?
- 22 **A.** Yes.
- 23 Q. And of course you understood then through your parents --
- 24 and you have older sisters as well, right?
- 25 **A.** Yes.

- 1 **Q.** Protective of them, I'm sure.
- 2 **A.** Yep.
- 3 **Q.** Of course.
- 4 So you always understood that if you had any problems that
- 5 | you could talk to them about things, right?
- 6 **A.** Who?
- 7 **Q.** I'm sorry, sir?
- 8 A. Who?
- 9 **Q.** Your parents?
- 10 **A.** Oh, parents, yeah. I thought you were talking about my
- 11 sisters.
- 12 **Q.** Would you talk to your sisters about your problems?
- 13 **A.** No.
- 14 **Q.** But your parents, you definitely could, correct?
- 15 **A.** Yep.
- 16 $| \mathbf{Q}$. And so obviously in part of growing up your parents are
- 17 giving you general counsel about things to do and things not to
- 18 do, right?
- 19 **A.** Yeah.
- THE COURT: You have to answer out loud.
- 21 THE WITNESS: Oh, yes.
- 22 BY MR. NIETO:
- 23 **Q.** So, you know, see something, say something. That kind of
- 24 thing, right?
- 25 **A.** Yes.

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- 1 Q. All right. Do you know a student by the name -- sorry, a
- 2 Gilman alum by the name of Patrick Lenahan?
- 3 A. Yes. I don't think he's a Gilman alum though.
- 4 Q. Oh, he's not. All right. Forgive me. But you know the
- 5 | name, right?
- 6 **A.** Yep.
- 7 **Q.** And he was one of the first people to do a naked lap. Do
- 8 you remember that story?
- 9 A. Nope.
- 10 **Q.** You're not familiar with that story?
- 11 A. No.
- 12 **Q.** Never spoke with Will Godine about that?
- 13 **A.** No.
- 14 Q. Never heard the "In honor of Patrick Lenahan"?
- 15 **A.** No.
- 16 **Q.** All right. But the naked running around Meadow Wood and
- 17 St. Paul's, right, how many people would participate in these
- 18 | naked runs?
- 19 A. Four or five.
- 20 **Q.** Four or five, all right. And did everyone find it to be
- 21 funny?
- 22 **A.** Yes.
- 23 **Q.** Right. Of course. Because if it weren't funny, someone
- 24 | would say something, wouldn't they?
- 25 **A.** Yeah.

- 1 Q. I mean, there's four or five of you?
- 2 A. Yeah.
- 3 **Q.** Right. So somebody, if they're being forced to run naked
- 4 in middle school by a teacher, is gonna tell somebody about
- 5 that; is that fair?
- 6 **A.** Yes.
- 7 **Q.** Okay. Now, you had indicated on your direct testimony
- 8 | that the abuse you suffered began with McDonald's or McDank's
- 9 as they would refer to it, right?
- 10 **A.** Yes.
- 11 \mathbf{Q} . And that would escalate then to being naked in the car?
- 12 **A.** Yes.
- 13 **Q.** And that would escalate then into stopping at a parking
- 14 lot, touching yourself, things of that sort?
- 15 **A.** Yes.
- 16 **Q.** That escalation, that's the trajectory, right?
- 17 **A.** Uh-huh.
- 18 Q. And you said that this would happen when you were 15 years
- 19 old?
- 20 **A.** Yes.
- 21 **Q.** All right. So this happened the first time after you had
- 22 called Mr. Bendann to pick you up after a party?
- 23 A. Yes.
- 24 **Q.** And you had been drinking?
- 25 **A.** Yes.

- 1 \mathbf{Q} . So you called him to pick you up?
- 2 A. Yeah.
- 3 **Q.** And is that something that you and the members of your
- 4 | social circle would do?
- 5 **A.** Yes.
- 6 **Q.** With some frequency, right?
- 7 **A.** Yeah.
- 8 Q. You didn't call an Uber, did you?
- 9 **A.** No.
- 10 **Q.** Didn't call your sisters, did you?
- 11 A. No.
- 12 **Q.** Definitely didn't call your parents?
- 13 **A.** No.
- 14 **Q.** No. But you felt comfortable enough calling Mr. Bendann
- 15 to come pick you up, right?
- 16 **A.** Yes.
- 17 \mathbf{Q} . And it didn't really matter what time or where you were,
- 18 he would dutifully go and pick you guys up, wouldn't he?
- 19 **A.** Yes.
- 20 **Q.** Right. And so the first time -- the first time that you
- 21 called him to pick you up and things got uncomfortable, right?
- 22 Do you remember that? That first time? Right?
- THE COURT: You have to answer out loud.
- THE WITNESS: Oh, yes. He's still talking.
- 25 **BY MR. NIETO:**

- **Q.** Did you tell anyone?
- **A.** No.
- **Q.** You didn't tell your parents?
- **A.** No.
- **Q.** You didn't tell your sisters or your friends?
- **A.** No.
- 8 | your athletic department?
- **A.** No.
- **Q.** But then you called him again after that, didn't you?
- **A.** Yep.
- **Q.** Right. And then again after that?
- **A.** Yes.
- $| \mathbf{Q}$. And so, per your testimony, the situation is escalating in
- 15 | a way that makes you feel uncomfortable; is that fair?
- **A.** Yes.
- **Q.** And you continue to call him throughout that time?
- **A.** Yes.
- **Q.** Now, the St. Paul's Meadow Wood hills, those are fairly
- 20 | steep hills; is that fair?
- **A.** Yes.
- **Q.** It's a bit of an athletic feat to be able to run it up and
- 23 down?
- **A.** Yes.
- **Q.** I mean, I'd have to imagine that not everyone can do that

- 1 | without running out of breath?
- 2 A. We didn't run up and down the entire thing. I never said
- 3 | that.
- 4 **Q.** You never said what, sir?
- 5 A. I never said that we ran up and down the entire thing. I
- 6 said we would run on it.
- 7 | Q. Oh, so when you say "run on it," what do you mean?
- 8 A. Shoot Out for Soldiers, do you know what that is?
- 9 **Q.** I don't, sir, please explain it.
- 10 A. It's a 24-hour [[[[[[[[]]]]]]] game for veterans. It goes on for
- 11 | the entire day. And the Defendant thought it would be the best
- 12 possible time for us to go out there and be naked on the hill.
- 13 | So we would run around on the hill and then our 13-year-old or
- 14 | 15-year-old selves would be scared that people could see us and
- 15 | run back to the car.
- 16 **Q.** I see. And that was what happened every time?
- 17 A. No. Yes, that in theory just --
- 18 **Q.** Forgive me, sir. Not in theory. Is that what happened
- 19 every time?
- 20 **A.** Yes.
- 21 **Q.** All right. Now, would you say that it was a fairly --
- 22 actually, strike that if I can.
- 23 If I can just pull up Government Exhibit 122.
- 24 MR. NIETO: Court's indulgence.
- 25 **BY MR. NIETO:**

- 1 Q. Sir, you had looked at some of these text messages earlier
- 2 in your testimony today. Do you remember?
- 3 **A.** Yes.
- 4 **Q.** All right. And you had testified that when Mr. Bendann is
- 5 | referring to running on Meadow Wood and not having pockets, do
- 6 you remember that series of texts?
- 7 **A.** Yep.
- 8 Q. That's in relation to Pokémon Go; isn't it?
- 9 **A.** What?
- 10 **Q.** Sir? Let me take a step back, sir. Are you familiar with
- 11 | the mobile application game Pokémon Go?
- 12 **A.** Yes.
- 13 **Q.** Okay. And part of that, it's a real world/virtual world
- 14 | combination on your phone where you can walk in the real world
- 15 and on your phone you can interact with AI creatures, correct?
- 16 **A.** Yes.
- 17 **Q.** And the genre of it is in relation to Pokémon, right?
- 18 **A.** Yes.
- 19 **Q.** And so as part of that, as you walk around with your
- 20 phone, if you stumble across a Pokémon character you can engage
- 21 | with them via your phone and quote/unquote capture them?
- 22 **A.** Yes.
- 23 **Q.** Right. And throw poké balls at them as it were?
- 24 A. Right.
- 25 \mathbf{Q} . And that was something you were doing when you were 14 or

- 1 | 15, right?
- 2 A. Yeah.
- 3 **Q.** So when he's referencing about finding eggs, that's in
- 4 | relation to Pokémon Go, isn't it?
- 5 **A.** Yes.
- $6 \mid \mathbf{Q}$. And, in fact, the pages that precede that text are just
- 7 | screenshots of different Pokémon characters, do you remember
- 8 | that, sir?
- 9 **A.** Yes.
- 10 **Q.** And so when he's referencing you having ran the time
- 11 before at Meadow Wood and you didn't have pockets, that was
- 13 guys trained or run?
- 14 A. No.
- 15 | Q. You would never run there for athletics at all?
- 16 A. No.
- 17 **Q.** Now, as members of your friend group, right, the Gilman
- 18 | [] [] [] [] [] [] [] , it wasn't uncommon for your friends to take
- 19 pictures of each other doing things naked, was it?
- 20 **A.** No.
- 21 **Q.** In fact, photos of each other's backsides being bare,
- 22 you've seen those photos, right?
- 23 A. Yes.
- 24 **Q.** And posting that on social media or on Snapchat?
- 25 A. Not that I know.

- 1 Q. Didn't know any of your friends posting pictures on their
- 2 | Snapchat, stories of themselves in various stages of undress?
- 3 **A.** No.
- 4 THE COURT: Compound question. Pictures or stories?
- 5 Back up and rephrase.
- 6 BY MR. NIETO:
- 7 **Q.** Had you ever seen any of your friends post naked pictures
- 8 of themselves on Snapchat?
- 9 **A.** No.
- 10 **Q.** On their stories?
- 11 A. No.
- 12 **Q.** Never saw Zack Oddo doing that?
- 13 **A.** No.
- 14 **Q.** Never saw Logan Paft do that?
- 15 **| A.** No.
- 16 **Q.** Never seen James Schloeder do that?
- 17 | A. Seen him -- seen him post a picture of himself naked?
- 18 **Q.** Yes.
- 19 **A.** No.
- 20 **Q.** Have you ever seen them post pictures of each other naked?
- 21 A. No.
- 22 **Q.** Are there photos of members of this group circulating
- 23 amongst your friend group of each other being naked?
- 24 A. Not circulating. We've seen it.
- 25 **Q.** Right. And they're funny; is that fair to say?

- 1 **A.** Yes.
- 2 **Q.** Right. You shared back and forth, depending on the moment
- 3 | for the joke, right?
- 4 A. Yeah, but we're not 35.
- 5 **Q.** Absolutely. Twenty-one, 22, right?
- 6 A. Yeah.
- 7 **Q.** Pictures starting from when you were 14 and 15?
- 8 A. We still don't see those.
- 9 **Q.** I see. Despite all of this nudity, right, your friends
- 10 | still, in these chats, they would use derogatory terms for gay
- 11 people, right?
- 12 **A.** Yes.
- 13 **Q.** And you know that because -- and, again, I'm not
- 14 suggesting you do, but you were part of group texts and group
- 15 chats with your friends from Gilman, right?
- 16 **A.** Yes.
- 18 | right, they would say "gay" or "fag," right?
- 19 **A.** Yes.
- 20 **Q.** And sometimes the word "retarded"?
- 21 **A.** Yes.
- 22 **Q.** Right. How about the word "faggot," have you seen any of
- 23 them use that term in a derogatory fashion?
- 24 A. Not derogatory.
- 25 **Q.** You've only seen it in a positive fashion?

- 1 **A.** No.
- 2 **Q.** Right. It's not the kind of word you can use as a term of
- 3 endearment, is it? I'm sorry, when you --
- 4 THE COURT: Wait for the answer. Answer the question
- 5 | if you can.
- 6 THE WITNESS: I -- not a great vocabulary, sorry.
- 7 You're using words --
- 8 BY MR. NIETO:
- 9 Q. Forgive me. When you're talking with your friends, right,
- 10 and someone throws the word "faggot" into a text thread, right,
- 11 | that's not a positive thing, is it?
- 12 **A.** No.
- 13 **Q.** It's derogatory, it's an insult; isn't it?
- 14 **A.** Yes.
- 15 \mathbf{Q} . And you were part of these conversations, were you not?
- 16 **A.** Yes.
- 17 **Q.** You heard them speak this way not only via text but also
- 18 in person, right?
- 19 **A.** Yes.
- 20 **Q.** And that happened in college 2022, didn't it?
- 21 **A.** What?
- 22 **Q.** Do you remember in 2022, when you were 21 and in college
- 23 participating in a group text thread in which that type of
- 24 | language was used?
- 25 A. With who?

```
With the friends from Gilman?
 1
    Q.
 2
         No.
    Α.
 3
         Would looking at something help refresh your recollection,
    0.
 4
    sir?
 5
    Α.
         Yes.
             MR. NIETO: I'm going to approach, Your Honor, with
 6
 7
    what I'll mark as Defense Exhibit 3 solely for identification
 8
    at this purpose.
 9
             THE COURT: Have you shown it to counsel?
                           One, objection. Two, I'd like to also
10
             MS. MCGUINN:
11
    see it.
12
             THE COURT: He's handing it to you so you can see it.
13
    After you see it, tell me if you object.
14
             MS. MCGUINN:
                           The Government would object.
             THE COURT: Private channel.
15
16
         (Whereupon, the following conference was held at the
17
    bench:)
18
             THE COURT:
                         Mr. Nieto, you're proposing to show this
    exhibit which has been marked for identification as defense
19
    exhibit what number?
20
             MR. NIETO:
21
                         Three, Your Honor.
22
             THE COURT:
                         Number 3 for identification, to refresh
    the witness's recollection. I think that's what you said your
23
24
    purpose was?
25
             MR. NIETO:
                         Solely, Your Honor.
```

```
THE COURT: What's the objection?
 1
 2
             MR. NIETO:
                         So the objection is, Your Honor, first I
 3
    have thought he was moving this into evidence. But second, I
 4
    think this line of questioning is going afield in that unless
 5
    they are using those words to describe the Defendant and/or the
 6
    Defendant is on this chat, I don't understand the relevance of
 7
    this line of questioning.
             THE COURT:
                         Okay, so fair enough. Where are we going?
 8
 9
             MR. NIETO: Your Honor, we're going as I had indicated
10
    in my opening statements is that there's this culture of
11
    anti-gay bias. So as we're suggesting, this was an adult,
12
    consensual, same-sex relationship, and the complaining witness
13
    did not feel comfortable with his friends or family admitting
14
    to that aspect. And so once his girlfriend's realization he
15
    was in this relationship he had to pivot. As I said in my
16
    opening, he had made misrepresentations about the genesis and
17
    the status of the relationship. This is part of that.
18
         Again, I'm not suggesting that he said it. I'm simply
19
    suggesting that he was part of the text thread with people from
20
    the <code>[][][][]</code> and Gilman community in which these words are
21
    bandied about regularly.
22
             THE COURT: So if I understood your opening statement,
23
    I thought you weren't contesting the allegation that he's
```

quilty of the crime of cyberstalking?

MR. NIETO: You're right.

24

the Defendant was 18.

THE COURT: Okay. And the other offenses that the Defendant is charged with, at least the exploitation, the sexual exploitation of a minor by their terms occurred before

MS. MCGUINN: Before the victim was 18.

THE COURT: Excuse me, before the victim was 18, right.

MR. NIETO: It is our position that the images are of him post 18 years old.

THE COURT: Okay. Very well. I'm going to allow you to pursue the line of questioning on the theory that it is designed to this elicit or illuminate the question of whether or not the victim's behavior in this case, his views, his accusations against your client are related to your client's claimed sexual preference, at least through opening statement.

The exhibit itself is not being offered for admission and, frankly, you can use anything to attempt to refresh a witness' recollection. So to the extent that there's a relevancy objection, it's overruled. And you may approach the witness with the exhibit. Leave it with the witness. Ask him to view it. When he's finished, ask him to look up. Go back to the witness stand. Recover the exhibit. Then ask your questions.

MR. NIETO: Forgive me, did Your Honor want me to approach the witness directly or through --

THE COURT: No, on this you can approach him directly.

```
MS. MCGUINN:
                           May I be heard briefly, Your Honor?
 1
 2
             THE COURT: On?
 3
             MS. MCGUINN:
                           This issue.
             THE COURT: Which issue?
 4
                           In that the defense wants to somehow
 5
             MS. MCGUINN:
    argue that between -- from March 20th of 2019, the day he
 6
 7
    turned 18, up until the time of the cyberstalking which is
    May 1st of 2022, this is a consenting relationship.
 8
    Government filed a 412 motion in limine to exclude.
 9
10
    fact that they may or may not have had some sort of consensual
11
    relationship is not fair game in terms of they've given us no
12
    notice of their intent to highlight certain things.
13
         I just think this line of questioning is starting to touch
14
    on those issues.
15
             THE COURT: Well, do you agree that you did not file a
16
    412 notice?
17
             MR. NIETO:
                        Absolutely.
18
             THE COURT:
                         So what limitations then exist in your
19
    efforts to get into 412 type matters?
             MR. NIETO: Your Honor, again, my understanding of the
20
21
    issues of the 412 would have to do with him being a minor
22
    victim.
23
             MS. MCGUINN:
                           No.
24
             MR. NIETO: Our position is that this was all over the
25
    age of 18. So the images, the photos, the videos, he was over
```

```
18.
        That is the defense to the first six counts.
 1
 2
            THE COURT:
                        Husher off.
 3
        (Whereupon, the bench conference was concluded.)
            THE COURT:
                        Ladies and gentlemen, we're going to take
 4
 5
   a brief recess. During this recess do not discuss the case
 6
   among yourselves. Do not allow yourselves to be exposed to any
 7
   news articles or reports that touch upon the case or the issues
 8
   that it presents or any articles or reports that relate to the
 9
   participants in the case. Avoid all contact with any of the
10
   participants in the trial. Do not make any independent
11
   investigation of the law or the facts of the case. Do not look
12
   up anything on the internet. Do not consult an encyclopedia or
13
   a dictionary.
        This is one of those times that I referred to when I have
14
15
   to address an issue with the lawyers outside of your hearing.
16
   I'm not sure exactly how long we're going to be on this recess.
17
   I just assure you that we'll be working very hard out here and
18
   we'll bring you back into the courtroom just as soon as it is
19
   appropriate to do so.
20
        Take the jury out.
21
        (Jury exits at 4:06 p.m.)
22
            23
   courtroom.
               Don't go far. You have not been excused.
```

Mr. Nieto, I'll hear from you first on the 412

24

25

Be seated, please.

Okay.

```
issue.
 1
 2
             MR. NIETO: Again, Your Honor, we're not here to --
 3
    our aim is not to try to establish sexual behavior or
 4
    predisposition.
 5
             THE COURT: On the part of?
             MR. NIETO:
                         On the part of the complaining witness in
 6
 7
    this case, Your Honor. Our defense -- and forgive me if I was
    unclear about it in my opening -- our defense is and has been
 8
 9
    that the images that are at the subject of these indicted
10
    counts were all post March 20th, 2019. And so this witness
11
    has, through their testimony, described a very different type
12
    of relationship.
13
         I'm not endeavoring to show a predisposition. What I'm
14
    endeavoring to do is to impeach that testimony by evidence
15
    directly contrary to it as an adult, as an adult.
16
             THE COURT:
                         So what is it that you want to ask the
17
    witness?
18
             MR. NIETO:
                         Forgive me, Your Honor, with respect to
    this particular portion of my line of questioning --
19
20
             THE COURT:
                         Yeah.
21
             MR. NIETO: Or in general?
         Well, in this line of questioning, Your Honor, as I said
22
23
    in my opening, is that this was a same-sex, consensual, adult
24
    relationship, and the issue here is that this witness within
```

his social circle that is unacceptable. And the language that

```
is used by the members, his friends, by the members of his team
 1
 2
    contributed to his inability to admit to them what was truly
 3
    going on here.
         And, again, that also -- so that's what it is.
 4
 5
    trying to -- I'm not trying to suggest anything else here.
 6
    It's just for the purposes of this was a consensual, adult
 7
    relationship, which is directly in regards to the sexual
 8
    exploitation of a minor and that this is child pornography.
 9
             THE COURT: Before you can pursue that line of
10
    defense, don't you have to have some predicate that relates to
11
    the timing of events? As to when they occurred? What's his
12
    18th birthday?
13
             MR. NIETO:
                         March 20th, 2019 [sic].
14
             MS. HAGAN:
                         2001.
             MR. NIETO: Of course. That's when he would turn 18.
15
16
             THE COURT: Give me a proffer? What are the
17
    questions?
18
             MR. NIETO: With regards to this, Your Honor, the text
19
    messages, again, I was just asking. If he had said yes, I
20
    wouldn't have gone to refresh the recollection. But now is
21
    regards to the specific language that was used -- forgive me,
22
    Your Honor, if I may, my notes are over there.
23
             THE COURT: Uh-huh.
             MR. NIETO: Your Honor, obviously using the
24
```

terminology that they used, which was anti-gay, anti-black,

```
anti-intellectual disability, this was happening in high
 1
 2
    school, it was happening in college. It happened throughout
 3
    the time since he was 18.
             THE COURT: Okay. Thank you, Mr. Nieto.
 4
 5
         So, Ms. McGuinn, the proposition has been placed before
    the jury that the Defendant is gay. Do you disagree with that?
 6
 7
             MS. MCGUINN: I don't disagree that that was the
 8
    proposition put forward.
 9
             THE COURT: Okay. And if that then is a trade or
10
    characteristic of the Defendant, why isn't it just generally
    relevant to inquire as to whether or not a witness who is
11
12
    making an accusation against the Defendant is motivated by some
13
    hatred or desire to disparage a person, in this case because of
14
    their sexual preference? Why wouldn't that just be relevant
15
    impeachment?
16
                           So to a certain degree it may be, but I
             MS. MCGUINN:
17
    think we are going too far afield. Your Honor sort of hit the
18
    nail on the head. Prior to March 20th of 2019, whether or not
19
    the victim is anti-gay, anti-black, anti anything, likes to run
20
    over puppies, is not relevant. It doesn't matter --
21
             THE COURT: Fair enough --
             MS. MCGUINN: -- he could not consent --
22
23
             THE COURT: -- but if the -- if the Defendant is gay
```

today, and if the witness is testifying against him today, his

potential motivation today on August whatever this is, 23rd of

24

MS. MCGUINN: And I agree to a certain point and to a certain degree. My concern is we are starting to get into that he lied or fabricated a consenting relationship because of this -- I believe Mr. Nieto's words were this ecosystem that he was involved in, which prior to March 20th, 2019, doesn't matter as to -- because if the images exist at that time or they do not, that's it. The victim has testified he was 15 or 16 when he recalls those events happening. So short of impeaching him "weren't you in fact 18," none of that has come out. I don't believe that's proper --

THE COURT: Well, no. I think the way it ties together is: Aren't you lying now about the age you were then because you are motivated by hatred rooted in bias against a particular sexual preference.

MS. MCGUINN: And that may be fair. But what I think is happening and what I'm afraid we're getting close to is isn't it true this was a consensual relationship after that time where we're going to start talking about things that are precluded by 412 and that that is why you didn't -- because counsel specifically asked: You didn't tell your mom; you didn't tell your dad; you didn't tell your sisters; you didn't tell anyone.

The implication, the way I understand it, is that he is ashamed somehow and lives in this world where he couldn't say

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it because he was ashamed. Or he himself, although counsel said, I'm not saying that he said it, but that he was in this world where this sentiment existed.
```

THE COURT: Point me to the pathway by which the rule would require notice in this unique circumstance that is evolving out of this impeachment strategy.

MS. MCGUINN: So the rule specifically provides that
counsel --

THE COURT: Take me to the rule and section.

MS. MCGUINN: I'm sorry, Your Honor. I'll grab my glass.

Your Honor, under 412 it specifically says that counsel or in this case the defense --

THE COURT: You still haven't taken me to the --

MS. MCGUINN: I'm sorry, in (a).

THE COURT: 412(a), Prohibited Uses.

MS. MCGUINN: Yes. The following evidence is not admissible in a criminal proceeding involving alleged sexual misconduct: One, evidence offered to prove that a victim engaged in other sexual behavior or evidence to prove the victim's sexual predisposition. The exceptions under (b) are very specific, that if it's being offered to show someone other than the defendant was the source of semen or injury, which is clearly not our case; (B) that the evidence of the specific instances of the victim's sexual behavior with respect to the

Which is, again, why the Government feels some impeachment as to his views as to why he might be lying today, lying today, it might be relevant, but not an overall discussion of whether or not he is -- whether or not he was, you know, over 18 and therefore lying about his age at the time.

They can ask him --

1

2

3

4

5

6

7

8

9

10

11

12

13

14

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16

17

18

19

20

21

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24

25

THE COURT: I understand your position.

MS. MCGUINN: Thank you.

THE COURT: But I think we're in an environment where the exception under (b)(1)(C) is at least in play because the Defendant, unquestionably, has Sixth Amendment rights to attempt to impeach. He's allowed to challenge the credibility of the evidence against him.

However, Rule 412 -- let me find it here, 412(c)(2), the hearing provision, says that before I admit evidence in this regard actually the party -- I believe the witness himself has a right to be heard.

So is the witness represented here?

MS. MCGUINN: No, Your Honor.

THE COURT: Are you sure? Have you asked him?

```
MS. MCGUINN:
                           I understand he has an attorney, Your
 1
 2
    Honor, but my understanding is that the -- first of all, we
 3
    haven't been given notice, that's the first thing.
             THE COURT: Where's your notice right come from?
 4
 5
             MS. MCGUINN: Your Honor, under motion: If a party
    intends to offer evidence under 412(b) the party must file a
 6
    motion --
 7
             THE COURT: You've got to get in the habit of starting
 8
 9
    with the reference to the provision.
10
             MS. MCGUINN: I'm sorry, Your Honor. (C) Procedure to
    Determine Admissibility.
11
12
             THE COURT: Right.
13
             MS. MCGUINN: (1) Motion.
14
             THE COURT: Yeah.
             MS. MCGUINN: If a party intends to offer evidence
15
16
    under 4 12(b) -- which is the exceptions.
17
             THE COURT: Right.
             MS. MCGUINN: -- file a motion specifically describing
18
19
    the evidence and state its purpose.
20
             THE COURT:
                       Right.
21
             MS. MCGUINN: Which has not happened which is why the
22
    Government filed a motion to preclude which Your Honor
23
    dismissed as moot since no notice had been given.
24
             THE COURT: Exactly. So, Mr. Nieto, I think you're
25
    90 percent of the way there. Did you file a notice of your
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intention to go down this road?
 1
            MR. NIETO:
 2
                        No, Your Honor.
 3
            THE COURT: Then you can't do it. The rule couldn't
 4
    be more clear.
 5
            MR. NIETO: Again, Your Honor --
            THE COURT: Sustained. Let's bring them in.
 6
 7
         Bring the jurors in.
             THE CLERK: All rise for the jury.
 8
 9
         (Jury enters at 4:19 p.m.)
10
            THE COURT: Be seated, please.
11
        12
         Mr. Nieto, you may continue your cross-examination.
13
            MR. NIETO: Thank you, Your Honor.
    BY MR. NIETO:
14
15
    Q.
         So, [[[[[[[[[[]]]]]]]], it was your testimony then that
16
    Mr. Bendann took advantage of you in high school prior to
17
    turning 18, correct?
18
         Yes.
    Α.
19
         Then once you turned 18, things continued until your
    Q.
20
    girlfriend found out about the relationship, right?
21
    Α.
         Yes.
22
         I want to make sure I'm pronouncing her last name
23
    correctly. Is it Seelert?
24
    Α.
         Seelert.
25
   Q.
         Okay. Thank you, sir.
```

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- 1 Now, you didn't give her permission to look at your iPad
- 2 | with those messages, did you?
- 3 **A.** No.
- 4 **Q.** That was a bit of a surprise, would you say?
- 5 **A.** Yes.
- 6 **Q.** Caught you off guard?
- 7 **A.** Yes.
- 8 | Q. You didn't want her to think anything -- well, strike
- 9 that.
- 10 You didn't want her to leave you, did you?
- 11 A. No.
- 12 **Q.** You two were in London for a few weeks over that summer?
- 13 **A.** Yep.
- 14 **Q.** Mutual friends on the same trip, stuff like that?
- 15 **A.** Yes.
- 16 **Q.** So you told her that he was -- Mr. Bendann was taking
- 17 advantage of you since you were under age, right?
- 18 **A.** Yes.
- 19 **Q.** And based on what you told her, she didn't leave, did she?
- 20 **A.** Excuse me?
- 21 **Q.** Based on what you told her in London, she didn't leave you
- 22 in London, did she?
- 23 A. No.
- 24 **Q.** All right. So when you had testified that Mr. Bendann
- 25 made you touch yourself, again, you did not tell your parents,

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- 1 your friends at the school, your [[[[[[[[[[team, or your coach,
- 2 | did you?
- 3 **A.** No.
- 4 **Q.** When this was happening every weekend, you didn't tell
- 5 your parents, the school, your best friends, the LAX team, or
- 6 your coach, did you?
- 7 A. I wouldn't say every weekend.
- 8 **Q.** You didn't tell anybody, did you?
- 9 **A.** No.
- 10 \mathbf{Q} . Of course, an adult doing that to a minor, that would be
- 11 | illegal, right?
- 12 **A.** Yeah.
- 13 **Q.** And he would have been arrested?
- 14 **A.** Yes.
- 15 **Q.** Right. And then this just continued and continued
- 16 | throughout high school, right?
- 17 **A.** Yes.
- 18 **Q.** And yet during this same period of time during high school
- 19 you would contact Mr. Bendann for rides home on a regular
- 20 basis, wouldn't you?
- 21 **A.** Yes.
- 22 **Q.** You would contact him to hang out and get food?
- 23 A. Yes.
- 24 **Q.** You would contact him, for example, one time to take you
- 25 to the airport?

- 1 **A.** Yes.
- 2 **Q.** You called Mr. Bendann if you needed anything, he would be
- 3 | there to help?
- 4 **A.** No.
- $5 \, | \, \mathbf{Q}$. All right. When you were in college, would you get into
- 6 an argument with your parents and they kicked you out of the
- 7 house?
- 8 A. Never.
- 9 **Q.** That never happened?
- 10 A. No.
- 11 | Q. You didn't call him to come get you after having a fight
- 12 | with your parents?
- 13 **A.** No.
- 14 Q. But the rides home, hanging out, the food, all of that
- 15 stuff, that was happening all at the same time as he was making
- 16 | you feel uncomfortable, right?
- 17 A. It was a part of it, yes.
- 18 **Q.** All right. The exhibit that we had seen with all of the
- 19 | Venmo transactions --
- 20 **A.** Yes.
- 21 **Q.** -- do you remember seeing that? None of those were from
- 22 before you were the age of 18, were they?
- 23 A. No.
- 24 **Q.** In fact, all of your testimony from this afternoon is all
- 25 after you turned 18; is that fair to say?

- 1 **A.** Yes.
- 2 **Q.** Again, your parents at your home they would allow drinking
- 3 of alcohol within the house, right?
- 4 **A.** No.
- 5 **Q.** You couldn't drink in the house -- strike that.
- 6 A. Yeah.
- 7 **Q.** Were you allowed to drink beer at home?
- 8 **A.** Yes.
- 9 **Q.** You had a fake ID?
- 10 **A.** Yes.
- 11 **Q.** You were able to get your own alcohol?
- 12 **A.** Not legally.
- 13 **Q.** But you were still able to get your own alcohol, right?
- 14 **A.** Depended on the place.
- 15 **Q.** Were you able to use that fake identification to purchase
- 16 | alcohol?
- 17 A. Sometimes.
- 18 Q. Sometimes, okay. And that was the point of the fake ID,
- 19 | right?
- 20 **A.** Yes.
- 21 **Q.** At your high school graduation, right, you had a keg at
- 22 your party?
- 23 MS. MCGUINN: Objection.
- 24 | THE COURT: Private channel.
- 25 (Whereupon, the following conference was held at the

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```
bench:)
 1
 2
             THE COURT: Relevance?
 3
             MR. NIETO: The same -- the same types of questions
 4
    that I've been asking about alcohol because in anticipation of
 5
    the upcoming witnesses there's going to be talk about
 6
    Mr. Bendann supplying alcohol and so what I've been trying to
    establish --
 7
             THE COURT: All right. Go ahead.
 8
 9
             MR. NIETO: So, Your Honor, all I'm trying to
    establish with this witness is that it was a culture of
10
11
    permission where parents would allow Gilman students to drink
12
    alcohol within the homes.
13
             THE COURT: Okay. But how is that relevant? What's
    that relevant to?
14
15
             MR. NIETO: Well, it's going to be relevant, Your
16
    Honor, because as the witnesses who are going to be forthcoming
17
    next week are going to be saying it was Mr. Bendann who was
18
    supplying them with alcohol and our point would be to suggest
19
    that that's not the case.
20
             THE COURT: All right. Is there expected to be such
21
    testimony next week?
22
             MS. MCGUINN:
                           No, Your Honor. In fact, I think, if my
23
    recollection is correct, maybe one might say that on an
24
    occasion the Defendant bought alcohol, but the rest of them had
```

older siblings who would do it. And none of them will say that

25

They may say that the Defendant would sometimes supply this victim with alcohol. So he can certainly ask if this victim -- if the Defendant ever bought him alcohol. Actually the other witnesses who are his agemates will say that they bought their own alcohol.

THE COURT: You're going to have to tell me more about why the alcohol in general is relevant here before I'm going to permit questions like, you know, was there a kegger after the high-school graduation.

I mean, all kinds of crazy things go in high school, many of them not legal. But most of that not relevant to what we're trying here. Unless you can show me how it is.

MR. NIETO: Your Honor, forgive me, it was my understanding that the witnesses were going to be saying when Mr. Bendann was house-sitting that he would bring alcohol and invite kids over to drink and run naked and --

THE COURT: Okay. So question withdrawn.

MR. NIETO: Yes, Your Honor.

THE COURT: Next topic. You know, I let lawyers in general try their case on both sides. We had cross-examination about your testimony today all pertains to activities after you turned 18. That was your question, wasn't it?

MR. NIETO: Yes, Your Honor.

THE COURT: And, Ms. McGuinn, there's no objection.

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```
MS. MCGUINN:
                           I interpreted this afternoon meaning by
 1
 2
    the time we came after lunch we were discussing college, in
 3
    which case he was after 18. I took him literally to mean this
    afternoon.
 4
 5
             MR. NIETO: I'm so sorry, Your Honor. Yes, the
    afternoon's testimony of direct we had talked about the
 6
 7
    testimony from this morning with this witness had to do with
    pre-18 and then this afternoon he was going to college.
 8
                                                             That's
 9
    all I meant.
10
             THE COURT: All right. It's a pretty subtle
11
    distinction and maybe that is exactly how it came in, in which
12
    case --
13
             MS. MCGUINN: That's how I heard it.
14
             THE COURT: -- the assessment that no objection was in
15
    order.
                           I understand.
16
             MS. MCGUINN:
17
             THE COURT: But I will tell you that it left me a bit
    confused because --
18
19
                           I was going --
             MS. MCGUINN:
20
             THE COURT: -- I, perhaps incorrectly, took
21
    Mr. Nieto's question as to pertain to the totality of the
22
    direct examination not just that portion conducted since the
    lunch break.
23
24
             MR. NIETO: I'm happy to clarify because that wasn't
25
    where I was endeavoring to go.
```

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```
I plan to clarify, I have it written
             MS. MCGUINN:
 1
 2
    down to clarify that.
 3
             THE COURT: You may if you wish, Mr. Nieto.
                                                            It sounds
 4
    like Government counsel is going to go there anyway.
                                                            Thank you
 5
    very much.
             MR. NIETO:
                         Thanks, Your Honor.
 6
 7
             THE COURT:
                         Next question.
         (Whereupon, the bench conference was concluded.)
 8
 9
             THE COURT: Mr. Nieto, next question.
10
             MR. NIETO:
                         Thank you, Your Honor.
11
    BY MR. NIETO:
12
         Now, you're represented by an attorney, correct?
    Q.
13
         Yes.
    Α.
14
         That was an attorney actually for whom Mr. Bendann
    Q.
    actually babysat his children, did you know that?
15
16
         No.
    Α.
17
         And you have an attorney because it's your plan to sue the
18
    Gilman School; isn't it?
19
    Α.
         No.
20
             MS. MCGUINN:
                            Objection.
21
             THE COURT:
                         Private channel.
22
         (Whereupon, the following conference was held at the
23
    bench:)
24
             THE COURT: What's the objection?
25
             MS. MCGUINN:
                            Relevance.
```

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THE COURT:
                         Where are you going? What's this about?
 1
 2
             MR. NIETO:
                         Bias to lie.
 3
             THE COURT:
                        Hopes to recover money?
             MR. NIETO:
                         Yes, Your Honor.
 4
 5
             MS. MCGUINN: Again, because you're already consenting
 6
    to cyberstalking so I don't understand if he's consenting to
 7
    cyberstalking there's a reason -- I mean, excuse me, there's no
 8
    reason to impeach him as to this lawsuit when the other
 9
    argument or the counter-argument is not consent. It's was he
10
    18, was it by the Defendant.
11
             THE COURT: I think the strategy, if I'm discerning it
12
    correctly, that the alleged misconduct occurred all after the
13
    18th birthday and that the victim is lying about his age and
    then an additional motivation for that would be to better set
14
15
    up his civil claims against the school?
16
             MR. NIETO: Yes, Your Honor.
17
             MS. MCGUINN: The victim was also 18 while in high
    school.
18
             So I don't -- I just don't think it's relevant, Your
            He was still in the school as an adult.
19
                                                     So I don't
    understand the relevance of his plans to sue the school in
20
21
    light of his questioning.
22
             THE COURT: Overruled.
23
         (Whereupon, the bench conference was concluded.)
24
    BY MR. NIETO:
25
    Q.
         Forgive me, sir. You are not looking to get any financial
```

```
1 | compensation from the Gilman School?
```

- 2 **A.** I'm just looking for justice right now.
- 3 **Q.** And that's not through financial compensation?
- 4 A. No.
- 5 MR. NIETO: All right. Thank you. Nothing further,
- 6 Your Honor.
- 7 THE COURT: Redirect.
- 8 MS. MCGUINN: Thank you, Your Honor. Very briefly.
- 9 REDIRECT EXAMINATION
- 10 BY MS. MCGUINN:
- 11 | Q. IIIIIIIIIIIII, counsel just asked you if all of your
- 12 | testimony this afternoon occurred while you were an adult, did
- 13 | you hear that question?
- 14 **A.** Yes.
- 15 **Q.** This morning, when you and I were doing direct exam and I
- 16 | showed you those five images, the pollo shirt?
- 17 **A.** Uh-huh.
- 18 **Q.** Were you an adult in those photos?
- 19 **A.** No.
- 20 **Q.** How old were you?
- 21 A. Fourteen or 15.
- 22 **Q.** In high school?
- 23 A. Yes, and younger.
- 24 **Q.** So this morning you were talking about when you were still
- 25 a kid; a minor under the age of 18?

```
1
    Α.
         Yep.
 2
    Q.
         Okay.
 3
                           Your Honor, I have no other questions.
             MS. MCGUINN:
             THE COURT:
                       May the witness be excused?
 4
 5
             MS. MCGUINN:
                           He may be. And if we could clarify that
    he's permanently excused.
 6
 7
             THE COURT: That's what is implicit in my question.
 8
    Is he excused?
 9
             MR. NIETO:
                         Court's indulgence if I may?
10
             THE COURT:
                         Yes.
11
         (Counsel conferring.)
12
             MR. NIETO: Your Honor, forgive me. May we go to the
13
    private channel briefly?
14
             THE COURT:
                       Yes.
         (Whereupon, the following conference was held at the
15
16
    bench:)
17
             THE COURT: Yes, Mr. Nieto.
                         Your Honor, obviously, yes, this witness
18
             MR. NIETO:
19
    is free to leave today.
                             Important to note, he is under a
20
    defense subpoena. At this time we do not anticipate recalling
21
    him.
          If that were to be the case, we would reach out to his
22
    counsel but at this time we do not foresee that happening.
23
             THE COURT: Well, I think you need to take a position
24
    because I'm going to give him directions about, for instance,
25
    whether he can remain in the courtroom and so forth. And if
```

```
there's the potential that you're going to call him as a
 1
 2
   witness in the defense case, he's subject to the sequestration
 3
   order.
        So do you want to talk with your co-counsel for a minute
 4
 5
   or are you ready to go?
            MS. MCGUINN: Your Honor, if I may complicate things.
 6
 7
   This victim lives out of state and traveled here by train, set
 8
   to return home to his job. He's supposed to report back to
 9
   work on Monday. So I just add that for knowledge of when he
10
   could be here, how he would have to get here.
11
            MR. NIETO: Again, Your Honor, we don't anticipate him
12
   being called at all today. So if he wished to leave, or leave,
13
   but I would imagine he would still be under sequestration for
14
   the day.
15
            THE COURT: Okay.
                               So you're not releasing him.
                                                            Ι
16
   will give him the standard instruction given to witnesses whose
17
   testimony is finished but have not yet been released.
                        Thank you, Your Honor.
18
            MR. NIETO:
19
            THE COURT:
                        20
   down. You have not yet been formally excused as a witness, so
21
   you may depart, you're not free to remain in the courtroom.
22
   Thank you.
23
        Next witness.
```

Your Honor, the next witness is Angela

24

25

Johnson.

MS. HAGAN:

```
THE COURT: Angela Johnson.
 1
 2
             MS. MCGUINN: Your Honor, may I have the Court's
 3
    indulgence for one moment?
 4
             THE COURT: Yes.
 5
         Please come forward, ma'am. All the way up here to our
    witness box. Once you arrive there, stop, turn to your left,
 6
 7
    raise your right hand, and look at our clerk.
 8
         (Witness sworn.)
 9
             THE CLERK: Thank you, ma'am. You may be seated in
10
    the witness box. And, ma'am, speaking directly into that
11
    microphone, could you please state and spell your first and
12
    last name.
13
             THE WITNESS: Angela Johnson,
    A-N-G-E-L-A-J-O-H-N-S-O-N.
14
15
             THE COURT: Your witness, ma'am.
16
                          DIRECT EXAMINATION
    BY MS. HAGAN:
17
18
         Good afternoon, Ms. Johnson.
    0.
         Good afternoon.
19
    Α.
         Can you tell us how old are you?
20
    Q.
21
    Α.
         I'm 58.
         And how are you currently employed?
22
    Q.
23
    Α.
         I'm the director of human resources with Gilman School.
24
         How long have you been the director of human resources at
25
    the Gilman School?
```

- 1 A. Twenty-one years.
- 2 **Q.** What are your responsibilities as the human resources
- 3 | director?
- 4 A. I set policy. Do compliance.
- 5 **Q.** As part of your position as the human resources director,
- 6 are you familiar with the staff members at Gilman to include
- 7 | the teachers?
- 8 A. I am.
- 9 **Q.** And do you know Christopher Bendann?
- 10 **A.** I do.
- 11 **Q.** How do you know him?
- 12 **A.** He was a teacher at Gilman School.
- 13 **Q.** Do you know when Mr. Bendann was hired at Gilman School?
- 14 **A.** He was hired in 2007.
- 15 \mathbf{Q} . And when he was hired in 2007, what was his position?
- 16 A. He was a fellow.
- 17 **Q.** Can you explain what a fellow is at Gilman?
- 18 A. Yes. We hire fellows to assist teachers so they learn how
- 19 to conduct a classroom.
- 20 **Q.** And for how long was he a fellow at Gilman?
- 21 A. Two years.
- 22 **Q.** And what happened at the conclusion of those two years
- 23 | with Mr. Bendann as a fellow?
- 24 A. He was hired as a full-time teacher in middle school.
- 25 **Q.** In middle school?

- 1 **A.** Yes.
- 2 **Q.** And for a particular grade?
- 3 A. That I don't know.
- 4 Q. Okay. And middle school at Gilman is covered by sixth
- 5 | through eighth; is that right?
- 6 **A.** It is.
- 7 $| \mathbf{Q}_{\cdot} |$ And so is it correct that he was hired as a full-time
- 8 teacher for the academic year 2009 to 2010?
- 9 **A.** Yes.
- 10 **Q.** In addition to being a full-time teacher, was Mr. Bendann
- 11 | also an advisor?
- 12 A. Yes, he was.
- 13 **Q.** Ms. Johnson, I'm going to direct your attention to Martin
- 14 | Luther King Day in January of 2023. Actually, I'm going to ask
- 15 to bring up Government Exhibit 16.
- 16 January 16th, 2023. Ms. Johnson, did you participate in a
- 17 | meeting with the head of school, Mr. Henry Smyth, and
- 18 Mr. Bendann on that date?
- 19 **A.** I did.
- 20 **Q.** What was the purpose of that meeting?
- 21 A. To inform Mr. Bendann that there had been an allegation
- 22 of --
- 23 **Q.** What action was taken based on the information that had
- 24 been reported?
- 25 A. That he was suspended.

- 1 **Q.** And was the purpose of that meeting to inform Mr. Bendann
- 2 | that he was being placed on suspension?
- 3 **A.** It was.
- 4 \mathbf{Q} . And was he told the nature of the allegation?
- 5 A. He was.
- 6 \mathbf{Q} . And what was his reaction at that time?
- 7 A. His reaction was that he became upset and said that the
- 8 allegations were false.
- 9 **Q.** Do you recall whether or not at that meeting he advised
- 10 | why he thought the allegation was being made or any motivation
- 11 | was behind it?
- 12 A. I do. He said that he was -- that we were, sorry, he said
- 13 | that it was because he was Asian.
- 14 **Q.** And during this meeting, was Mr. Bendann told who
- 15 | initiated or complained? Who had prompted this allegation?
- 16 A. No.
- 17 **Q.** Did he ask who had done this?
- 18 **A.** He did.
- 19 **Q.** Now, I'm going to direct your attention to the Friday of
- 20 | that same week, January 20th, 2023. By that time, had Gilman
- 21 | concluded its investigation?
- 22 **A.** We had.
- 23 **Q.** And on that Friday, was there another meeting scheduled
- 24 | with Mr. Bendann?
- 25 **A.** Yes.

- 1 \mathbf{Q} . And was that meeting in person?
- 2 A. No, it was by Zoom.
- 3 **Q.** Who participated in that meeting?
- 4 A. Henry Smyth, Mr. Bendann, and myself.
- 5 **Q.** What was the purpose of this meeting over Zoom?
- 6 A. To terminate his employment.
- 7 **Q.** Was he notified that his employment was terminated over
- 8 | this Zoom meeting?
- 9 **A.** Yes.
- 10 **Q.** How did he react?
- 11 A. Very upset.
- 12 **Q.** Did he say anything?
- 13 A. He said that he hadn't done the things that he was accused
- 14 of and that, again, he was being persecuted for being Asian.
- 15 \mathbf{Q} . Did he say anything with respect to the naked running?
- 16 | Had that been discussed during the meeting?
- 17 A. Yes, he said he did not do any of that.
- 18 Q. Did he say anything whether he knew anything about naked
- 19 running?
- 20 **A.** No, he said he didn't know anything about that.
- 21 **Q.** Ms. Johnson, you described Mr. Bendann as being upset.
- 22 | Can you be more specific?
- 23 A. He appeared to cry.
- 24 **Q.** And why do you say "he appeared to cry"?
- 25 A. Because no tears fell.

```
MS. HAGAN:
                          Nothing further, Your Honor.
 1
 2
             THE COURT:
                          Cross-examination.
 3
             MR. PROCTOR:
                            Thank you, sir.
                            CROSS-EXAMINATION
 4
    BY MR. PROCTOR:
 5
         Good afternoon.
 6
    Q.
         Hello.
 7
    Α.
 8
         Remind me again, how long have you worked at Gilman?
    0.
 9
         I've worked there for 22 years.
    Α.
10
    Q.
         And of those 22 years, how long has [[[[[[[[[[[[[[]]]]]]]]]]]] been your
11
    boss?
12
         Twenty-one of those 22 years.
    Α.
13
         Now, you've been testifying today about what happened in
    0.
14
           Do you recall an investigation by T&M in 2020?
         I do.
15
    Α.
16
         And that was an investigation of sexual abuse at the
17
    Gilman School, was it not?
18
             MS. HAGAN:
                          Objection.
19
             MS. MCGUINN:
                            Objection.
             THE COURT: Whose witness it is?
20
21
             MS. MCGUINN:
                            I apologize, Your Honor. It's a habit.
22
             THE COURT:
                          Thank you. Private channel.
23
         (Whereupon, the following conference was held at the
24
    bench:)
25
             MS. MCGUINN:
                            I apologize, Your Honor.
```

Ronda J. Thomas, RMR, CRR - Federal Official Reporter

```
THE COURT:
                         First of all, what's T&M?
 1
 2
             MS. HAGAN:
                         I have the same question.
 3
             MR. PROCTOR:
                           It's like outside -- they come in and
 4
    investigate allegations of sexual abuse.
 5
             THE COURT: And Gilman hired them for some purpose?
             MR. PROCTOR: Because of prior sexual abuse by another
 6
 7
    teacher, but I'm not going there. The reason it's relevant,
 8
    Your Honor, is by -- they interviewed student, staff, the
 9
    board, and they find in their press release no instances of
10
    current sexual abuse.
11
             THE COURT: What's the date of that press release?
12
             MR. PROCTOR:
                           2020.
13
             THE COURT: In 2020 they conducted an investigation
    and found no instances?
14
             MR. PROCTOR: Yes. And Mr. Bendann worked there in
15
16
    2020.
           No current sexual abuse.
17
             THE COURT: Okay. And what's the objection?
                         Your Honor, first of all, I don't know
18
             MS. HAGAN:
19
    what -- I don't know the specifics of this T&M investigation.
20
    I don't know this press release that defense counsel is
21
    referring to. I don't know what specific time frame within
22
    2020 this investigation took place. So I just don't know at
23
    this point --
24
             THE COURT: So I'm not sure you're entitled to know
25
    because he's a defendant in a criminal case, and he doesn't
```

```
have to tell you what his strategy is. Is your objection that
 1
 2
    you don't know what's coming or is your objection that the
 3
    evidence is not relevant?
             MS. HAGAN: It's not relevant based on what he's
 4
 5
    proffered.
             THE COURT: Based on the proffer, I think it's
 6
 7
    relevant. Mr. Proctor has proffered that during the relevant
 8
    time period there was an investigation that occurred at the
 9
    school searching for evidence of sexual abuse by teachers
10
    against students and found no evidence of it.
         Now, of course none of that this deals with the realities
11
12
    that may be out there in the world, which is that sometimes
13
    sexual abuse is covert and hard to discover. But nonetheless,
14
    it sounds like it is what it is.
         I mean, you don't have any reason to suggest that
15
    Mr. Proctor's proffer that there was such an investigation is
16
17
    untrue.
18
             MS. HAGAN:
                         No, but I don't know if this is an
19
    investigation that was prompted by some other report.
20
             THE COURT: Well, it sounds like --
21
             MS. HAGAN:
                        With other individuals.
22
             THE COURT:
                         Sounds like we're going to find out from
    the witness.
                  She is the head of HR.
23
24
             MR. PROCTOR: Your Honor, correct.
                                                 It was an
25
    investigation into a former Gilman teacher, but I don't want to
```

```
go there.
 1
 2
             THE COURT: Yeah, where do you want to go?
 3
             MR. PROCTOR:
                           I want to go, they interviewed students,
 4
    staff, alumni, board, members of the community, and their
 5
    conclusion was they find no instances of current sexual abuse.
             THE COURT: And your good faith basis for going down
 6
 7
    this road is evidently some information that you have in your
 8
    hand.
 9
             MR. PROCTOR:
                           Correct.
10
             THE COURT: What is it?
             MR. PROCTOR: It is a letter to the Gilman community
11
12
    written by the headmaster and the president of the Boards of
13
    Trustees that literally said they did those things and that was
    their conclusion.
14
             THE COURT: Overruled.
15
         (Whereupon, the bench conference was concluded.)
16
17
             THE COURT: The objection is overruled. You may
18
    inquire, Mr. Proctor.
    BY MR. PROCTOR:
19
20
    Q.
         It's been a minute. Do you remember my question, ma'am?
21
    Α.
         No.
22
             THE COURT: Restate the question.
23
             MR. PROCTOR:
                           Thank you.
24
    BY MR. PROCTOR:
25
    Q.
         In 2020, did an outside consultancy firm named T&M come to
```

1 | the Gilman School?

- 2 **A.** Yes.
- 3 **Q.** And did they conduct an investigation into sexual abuse at
- 4 | the Gilman School?
- 5 **A.** Yes.
- 6 **Q.** And as part of that, did they interview students?
- 7 A. I don't know.
- 8 **Q.** Did they interview staff?
- 9 **A.** Yes.
- 10 **Q.** Did they interview you?
- 11 A. No.
- 12 **Q.** Did they interview alumni?
- 13 A. I don't know.
- 14 **Q.** Did they interview the board members?
- 15 A. I don't know.
- 16 **Q.** What about members of the community?
- 17 A. I don't know.
- 18 **Q.** Following their investigation, did the head of school,
- 19 Mr. Smyth, send a letter to the Gilman community with their
- 20 findings?
- 21 **A.** He did.
- 22 \mathbf{Q} . And in that findings, did he state that they find no
- 23 instances of current sexual abuse?
- 24 **A.** Yes.
- 25 **Q.** Now, that letter, if I told you it was dated January 21st,

Ronda J. Thomas, RMR, CRR - Federal Official Reporter

```
1 2021, does it sound about right?
```

- 2 **A.** Okay.
- 3 **Q.** Does that sound correct?
- 4 **A.** Yes.
- 5 **Q.** January 21st of 2021, where was Mr. Bendann working?
- 6 A. He was working at Gilman School.
- 7 **Q.** Now, you stated when Mr. Bendann was terminated he denied
- 8 the accusations, right?
- 9 A. Correct.
- 10 **Q.** You also said he said more than once that he was being
- 11 persecuted for being Asian, words to that effect, did you not?
- 12 **A.** I did.
- 13 **Q.** Ballpark, how many teachers does Gilman have?
- 14 **A.** About 300.
- 15 **Q.** How many of them are Asian?
- 16 **A.** Five.
- 17 **Q.** Now, you also said he got upset and appeared to cry,
- 18 right?
- 19 A. Correct.
- 20 **Q.** You'd been there 20 years, if you had been terminated how
- 21 | would you feel?
- 22 A. I would be upset.
- 23 MR. PROCTOR: Can I have a second, please, Judge?
- THE COURT: Yep.
- 25 (Counsel conferring.)

Ronda J. Thomas, RMR, CRR - Federal Official Reporter

```
1 MR. PROCTOR: That's all I got.
```

2 THE COURT: Redirect.

3 REDIRECT EXAMINATION

- 4 BY MS. HAGAN:
- $5 \, | \, \mathbf{Q}$. Ms. Johnson, as a result or during this investigation did
- 6 | I understand you correctly that you indicated you do not know
- 7 | whether or not students were interviewed as part of this
- 8 investigation?
- 9 **A.** Correct.
- 10 \mathbf{Q} . And that would be the current students at the time of that
- 11 | investigation?
- 12 **A.** Yes.
- 13 **Q.** And in January of 2021, to your knowledge, was [[[[[[]]]]]
- 14 [[[[[[]]]]]] still a student at Gilman?
- 15 **A.** Yes.
- 16 **Q.** In January of 2021? [[[[[]]]]]?
- 17 A. I'm not sure how old he is.
- 18 $| \mathbf{Q}_{\cdot} |$ And do you know whether or not as part of that
- 19 investigation, whether or not teachers at the time were
- 20 | interviewed?
- 21 A. Teachers were interviewed.
- 22 **Q.** And would that have included Mr. Bendann?
- 23 A. I assume so.
- 24 | Q. Other than that, you were not aware of who all was
- 25 linterviewed --

```
1
    Α.
         No, I was not.
 2
         -- as part of that investigation?
    Q.
 3
    Α.
         No.
             MS. HAGAN: Court's indulgence. Nothing further, Your
 4
 5
    Honor.
             THE COURT:
                         May the witness be excused, Ms. Hagan?
 6
 7
             MS. HAGAN:
                         Yes.
             THE COURT:
                         Mr. Proctor?
 8
 9
             MR. PROCTOR: Yes, sir.
10
             THE COURT:
                         Ma'am, you're excused, and you may depart.
11
             MS. MCGUINN: The Government would next call Henry
12
    Smyth.
13
             THE COURT: Henry Smyth.
14
             MS. MCGUINN: Your Honor, I'm looking at the time,
15
    would this be the last witness for today? We have one or two
16
    here I just want to let them know.
17
             THE COURT: How long do you think Mr. Smyth would be
    on direct?
18
19
             MS. MCGUINN: Probably 10 or 15 minutes and then
20
    cross.
21
             THE COURT: I think that'll probably be the end of the
22
    day and you can release your other witnesses.
23
             MS. MCGUINN: Thank you, Your Honor.
24
             THE COURT: Yes. Sir, please come forward all the way
25
    up here to this witness box. Once you stop, pivot to your
```

- 20
- 21
- 22 then the title changed three years ago to head of school.
- 23 0. Is head of school kind of similar to being a principal?
- 24 Α. Yes.
- 25 Q. When did you begin at Gilman?

- 1 A. 2010, summer of 2010. So July 1 I think was my start
- 2 date.
- 3 **Q.** And what role did you start with in 2010?
- 4 A. So I was the assistant headmaster for three years and
- 5 became head in 2013, summer of 2013.
- 6 Q. So you've been the head of schools for just about 11 years
- 7 I now?
- 8 A. Correct.
- 9 **Q.** Can I get a little bit on your background. Have you had
- 10 prior administrative jobs in the school systems?
- 11 | A. I have. I worked in a school in Washington, D.C. before
- 12 | moving to Baltimore. I was the head of upper school, which at
- 13 that school was fourth through eighth grade so nursery through
- 14 eighth grade.
- 15 Before that I was in a school in California, and I taught
- 16 and coached and was a grade-level dean and did admissions work
- 17 before that a couple of other independent schools.
- 18 **Q.** How long have you been in education?
- 19 A. Thirty-two years. Since college I guess.
- 20 **Q.** Where did you go to college?
- 21 A. Went to Princeton.
- 22 **Q.** Do you have any degrees after Princeton?
- 23 A. I have a master, an MA in education.
- 24 **Q.** Where from?
- 25 A. From Stanford.

- 1 \mathbf{Q} . Can you tell me a little bit about the layout of Gilman?
- 2 You mentioned these terms: Upper School, Lower School. Does
- 3 | Gilman have divisions?
- 4 A. It does. It's a pre-K to 12 day school. Pre-K being four
- 5 | year olds. We're divided in three divisions: Lower school is
- 6 pre-K through fifth grade, middle school is sixth through
- 7 eighth, and then upper school is nine through 12.
- 8 \mathbf{Q} . And the existence of a pre-K and K, is that somewhat new
- 9 | for Gilman?
- 10 A. It is. Kindergarten is about 15, 16 years old, 15 years
- 11 old, I think. And then pre-K is probably four years old.
- 12 **Q.** Does each of those divisions, lower, middle, and upper
- 13 | school have a point of contact or a principal of each division?
- 14 A. There is. So we call them division heads. There's a head
- 15 of lower school, a head of middle school, and a head of upper
- 16 | school.
- 17 **Q.** Where is your office located on campus?
- 18 **A.** My office is in the main building which is called Carey
- 19 Hall which houses some senior administrative offices and a lot
- 20 of the upper school classes and offices.
- 21 **Q.** Do you know the <code>[][][][]</code> family?
- 22 **A.** I do.
- 23 Q. And, specifically, let's start with [[[[[[[[[[[[]]]]]]]]]]. Do you
- 24 know him?
- 25 **A.** I do.

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- 1 **Q.** How do you know him?
- 2 A. We worked closely together. He's the short-term CFO at
- 3 Gilman, and so I worked with him now since, you know, since I
- 4 started.
- 6 A. I did. She originally came on -- I can't remember the
- 7 | year -- she came on as an admissions officer within the school.
- 8 And then she became, when I was head, she became the director
- 9 of enrollment which was a new position.
- 10 **Q.** Other than knowing them due to their jobs at Gilman with
- 11 you, do you know them socially?
- 12 **A.** Yeah.
- 13 **Q.** How do you describe knowing them socially?
- 14 A. So when we moved to Baltimore, they were neighbors with
- 15 some of the very few people that we knew, old friends, so we
- 16 got to know them a little bit outside of school early on.
- 17 **Q.** And you saw Ms. Johnson, she's your head of HR?
- 18 **A.** Yes, yes.
- 19 **Q.** Does Gilman have a board of trustees?
- 20 A. It does.
- 21 **Q.** And what is that board comprised of?
- 22 **A.** So the board is 40 or so people who, at this point, are
- 23 all in one way or the other connected to the school. It's
- 24 mostly current parents and alumni. Some of which fit both of
- 25 those, alums who are also current parents.

- 2 trustees?
- 3 A. So the board of trustees is ultimately the overseer of the
- 4 school. And I'm the sole employee of the board of trustees.
- 5 And then I work -- everybody else works for Gilman. I'm
- 6 employed by the board, if that makes sense.
- 7 **Q.** So, I think so. You work at the leisure of the board?
- 8 A. I do.
- 9 **Q.** If they're not happy, you're out?
- 10 A. I serve at the pleasure of the board, yes.
- 11 **Q.** And other employees, like teachers, that's a different
- 12 process altogether?
- 13 A. Correct. They're employed by the school. So,
- 14 effectively, as the head of the school I'm ultimately in charge
- 15 of hiring and retention and termination of faculty.
- 16 **Q.** And do you know Christopher Bendann?
- 17 **A.** I do.
- 18 **Q.** And when you began working at Gilman in 2010, was he
- 19 already there?
- 20 **A.** Yes.
- 21 \mathbf{Q} . And what was his job?
- 22 **A.** He was a middle school social studies teacher, advisor.
- 23 And I think he was coaching at that point, too. Most middle
- 24 | school teachers do, so . . .
- 25 **Q.** Can you explain to me what is an advisor in terms of how

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- 2 A. Sure. So in middle school a group of call it eight to 12
- 3 or so boys are in what's called an advisory. And it's across
- 4 grade level so there are boys in sixth, seventh, and eighth
- 5 grade in a group with a faculty member who serves as their
- 6 advisor, which is essentially the point person between home and
- 7 | school.
- 8 The advisory groups meet about once a week -- actually
- 9 probably twice a week, and the advisor helps to keep tabs on
- 10 the academic and social, emotional well-being of the students,
- 11 | in our case the boys, in his or her advisory.
- 12 **Q.** Did you have a working relationship with the Defendant?
- 13 **A.** Yes.
- 14 | Q. What about socially? What I mean by social here, outside
- 15 | of the Gilman walls?
- 16 A. Not outside of Gilman, no.
- 17 **Q.** Prior to 2023, what was your view of the Defendant's
- 18 popularity as a teacher at Gilman?
- 19 A. He was very well liked.
- 20 **Q.** January of 2023, did you receive some information
- 21 regarding Christopher Bendann?
- 22 **A.** I did.
- 23 **Q.** Without telling what was said, who was the person you
- 24 | spoke to to get that information?
- 25 A. I spoke to, at the time, a current parent.

- 1 Q. Okay. Based on that conversation, did you have a meeting
- 2 | with the Defendant?
- 3 **A.** I did.
- 4 **Q.** If we can pull up Government's Exhibit 16, please?
- 5 Using this -- you recognize that to be a January 2023
- 6 calendar.
- 7 **A.** Yes.
- 8 Q. Using that as a reference point. When do you recall --
- 9 | first, let's start with receiving information from a current
- 10 parent? Around what time did you receive that information?
- 11 | A. It was Martin Luther King Day. It was probably late
- 12 | morning between 10:00 and noon, I think.
- 13 **Q.** And as far as having a meeting, when did that occur?
- 14 A. With the Defendant?
- 15 **Q.** Yes.
- 16 | A. Later that day so I couldn't tell you what time. Probably
- 17 | late afternoon.
- 18 **Q.** And you said it was a day off, was he contacted and asked
- 19 | to come in?
- 20 A. Yes.
- 21 **Q.** Where was that meeting held?
- 22 A. In my office.
- 23 **Q.** Who was present?
- 24 A. I was there with Angela Johnson, director of HR.
- 25 \mathbf{Q} . And at that point when the meeting was starting or

- undergoing, what decision had been made with regard to the 1
- 2 Defendant's employment as of January 16th of 2023?
- 3 So at that meeting we told the Defendant that he would be
- 4 placed on leave while we looked into the matter more.
- 5 Q. Did you explain the reason for him being placed on leave?
- 6 I did. Α.
- What was his reaction? 7 Q.
- 8 Paraphrasing. Disbelief. Didn't understand why people Α.
- would make those kinds of accusations about him. 9
- Did he say anything about racial bias? 10 Q.
- 11 I don't recall. He might have, but I don't recall. Α.
- 12 Based on what was reported to you after that January 16th Q.
- 13 did you undergo an investigation at your school?
- 14 Α. Yes.
- By the end of that week, had you met with and communicated 15 Q.
- 16 with other members of the Gilman community?
- 17 Yes. Α.
- 18 Can you say, generally, who had you met with in terms of
- 19 the Gilman School?
- 20 So I spoke to some other -- I spoke more to the
- 21 personal I had talked to on the 16th and a couple of other
- 22 families and students that we thought might have had more
- 23 information to share with us that could shed light on what we
- 24 were dealing with.
- 25 Q. Okay. Based on what was reported to you, did you consult

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- 1 with the board of trustees or anyone else regarding the
- 2 Defendant's status as a teacher?
- 3 A. I did. I consulted, well, with Ms. Johnson, we talked
- 4 about that earlier. I consulted with the board, primarily
- 5 through the board president, and then also with lawyers.
- 6 **Q.** When you say lawyers, is that specific -- any specific
- 7 lawyers?
- 8 A. Jeff Genth who works with the school.
- 9 **Q.** What had been decided in terms of the Defendant's position
- 10 at the school on Friday the 20th?
- 11 | A. On Friday, the 20th, we had determined that his employment
- 12 | would be terminated.
- 13 **0.** Was the Defendant informed of that?
- 14 **A.** Yes, on the 20th.
- 15 **Q.** How did that occur?
- 16 A. By Zoom.
- 17 **Q.** Who was present on that Zoom call?
- 18 A. The Defendant, Angela Johnson and I were present.
- 19 \mathbf{Q} . Who led that discussion or who led that meeting?
- 20 **A.** I did.
- 21 **Q.** Did you inform the Defendant of his termination?
- 22 A. I did, yes.
- 23 **Q.** What was his reaction or what did say if you recall?
- 24 A. Similar to the 16th. Disbelief. There were some tears.
- 25 Didn't understand why people would make those accusations.

- 1 Didn't understand why I would believe them.
- 2 **Q.** Did he ever ask you the names of who had made these types
- 3 of allegations?
- 4 **A.** Yes.
- 5 **Q.** Did you tell him who?
- 6 A. No, I did not.
- 7 \mathbf{Q} . What determination was made in terms of the Defendant
- 8 being allowed to continue to access Gilman property?
- 9 **A.** That he would not be allowed to access Gilman property.
- 10 $| \mathbf{Q}_{\cdot} |$ In terms of the allegation after that meeting, did you
- 11 | contact anyone outside of Gilman?
- 12 **A.** Yes. We notified Child Protective Services and that was
- 13 done through our, Jeff Genth, our lawyer --
- 14 **Q.** Okay.
- 15 A. -- who made the call to Child Protective Services and as I
- 16 understand followed up with the required paperwork.
- 17 **Q.** Are you what's called a mandatory reporter?
- 18 **A.** We are.
- 19 \mathbf{Q} . And for ladies and gentlemen of the jury who may not know
- 20 what that means, can you tell us what is a mandatory reporter?
- 21 A. Sure. So as a school, an institution that works directly
- 22 | with children, we are legally obligated to report any suspected
- 23 abuse or neglect to the appropriate authorities depending on
- 24 where that neglect or abuse might have take place. So county
- 25 or city, typically.

- 1 **Q.** In January of 2023, was your understanding of the
- 2 | allegation including naked laps?
- 3 **A.** Yes.
- 4 **Q.** Did there come a time where you learned that these
- 6 **A.** There was a time and point.
- 7 **Q.** Relative to January 20th, when did you learn that [[[[[[
- 8 [[[[[[]]]]] and exploitation was involved?
- 9 A. So I had learned -- at some point that week his name had
- 10 come up as somebody who might have done a lap without clothes
- 11 on.
- 12 **Q.** Okay. In February, did you understand or know any more
- 13 | serious allegations involving [[[[[[[[[[[[[[]]]]]]]]]]]]]
- 14 A. I did not.
- 15 **Q.** Okay. Did there come a time when you did learn more
- 16 | serious allegations that involved [[[[[[[[[[[[[[]]]]]]]]]]]]?
- 17 **A.** Yes.
- 18 **Q.** How long, relative to January 20th, afterwards did you
- 19 | know that information?
- 20 A. Give me a second on this. So we learned about the more
- 21 | serious allegations generally I guess a couple of weeks after
- 22 | when the Defendant was arrested and it was reported in the
- 23 news. And I didn't, at that point, did not who the victim
- 24 | number one as it was reported in the news was. It was probably
- 25 a couple -- at least a month, if not a couple of months before

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- 2 **Q.** Is it fair to say you never had a conversation with [[[[]]]
- 4 more serious allegations in January or February of 2023?
- 5 **A.** Correct. I had only talked to [[[]] about the allegation
- 6 that [[[[]] had run around without his clothes on.
- 7 **Q.** And lastly, Mr. Smyth, can you describe briefly how have
- 8 these allegations affected your ability to do your job at
- 9 | Gilman?

1

- 10 | A. Well, it's been really hard. The school was wrecked by
- 11 | this, the community, our school community --
- 12 MR. NIETO: Objection, Your Honor, to this, the
- 13 | relevance.
- 14 THE COURT: Fair enough. Let's sort that out.
- 15 | Private channel.
- 16 | (Whereupon, the following conference was held at the
- 17 | bench:)
- 18 | THE COURT: Relevance.
- 19 MS. MCGUINN: Your Honor, the allegations or, excuse
- 20 | me, the implication was made in opening that Gilman is just
- 21 | rallying around this victim in some sort of way to get back at
- 22 | Bendann who was on the outside. I think it's fair to say or
- 23 | fair questioning that obviously Mr. Smyth was very troubled by
- 24 this in his ability to do his job. This was not,
- 25 | quote/unquote, "fun." This was not some allegation that was

made up so they could rally around someone. 1

I think it's fair direct question based on what counsel has alluded to in his opening.

THE COURT: Reframe the question so it goes more to the attempt to uncover the reaction within the school whether they take the allegation serious or whether they take the matter seriously or not seriously, is it trivial? Is it significant to the institution? If you reframe it that way the question seeks relevant information.

> MS. MCGUINN: Thank you, Your Honor.

THE COURT: Sustained. You may reframe.

MS. MCGUINN: Thank you.

(Whereupon, the bench conference was concluded.)

THE COURT: Sustained. Reframe the question.

MS. MCGUINN: Yes, Your Honor.

16 BY MS. MCGUINN:

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- Mr. Smyth, can you describe the seriousness at which you
- 18 and Gilman took this allegation, the allegations regarding
- 000000000000000000 19
- 20 Sure. With the utmost seriousness. I mean, any time as
- 21 educators work and in charge of the care of children we take
- 22 any allegation like this unbelievably seriously.
- 23 MS. MCGUINN: Your Honor, I have no other questions
- 24 for Mr. Smyth.
- 25 **THE COURT:** Cross-examination?

1 MR. NIETO: Thank you.

2 CROSS-EXAMINATION

- 3 BY MR. NIETO:
- 4 Q. Mr. Smyth, you are the head of school at Gilman, correct?
- 5 A. Correct.
- 6 **Q.** And I think you indicated it was only in the last three
- 7 | years that title name has changed?
- 8 A. Correct.
- 9 **Q.** Used to be headmaster?
- 10 A. Correct.
- 11 \mathbf{Q} . And, as time has gone on, obviously the implication behind
- 12 | the use of the word "master" has some negative historical
- 13 | connotations; is that fair to say?
- 14 A. I think so. Yep.
- 15 **Q.** That's the reason for the name change; isn't it?
- 16 A. I gave -- when we discussed the name change with the Board
- 17 of Trustees, there were two primary reasons that I gave that
- 18 made sense for the title to be changed. One of them was the
- 19 association with plantation slavery and the other was the fact
- 20 | that I don't teach anymore. Master is also a reference to
- 21 teacher. I'm more of a CEO than a head teacher.
- 22 **Q.** All right. Obviously, it is important as the head of
- 23 | school that Gilman be inclusive and accepting; isn't it?
- 24 **A.** Yes.
- 25 **Q.** In fact, on your website it first says, "The pursuit of

- 1 excellence starts here."
- 2 Is that your understanding?
- 3 **A.** Yes.
- 4 **Q.** And they have a section specifically listed as "fostering
- 5 an inclusion community," right?
- 6 A. Correct.
- 7 **Q.** And there's a specific program at Gilman, a fairly recent
- 8 development, known as CIE or Community, Inclusion, and Equity;
- 9 is that correct, sir?
- 10 A. That's correct.
- 11 **Q.** Sorry?
- 12 **A.** That's -- that's our terminology for what's often called
- 13 DEI work.
- 14 Q. Sure. And of course these aren't just buzz words that you
- 15 put on your website to make the school seem more diverse or
- 16 | inclusive, right?
- 17 A. Correct.
- 18 Q. Right. This is an ethos that you preach and teach at this
- 19 | school?
- 20 A. Correct.
- 21 **Q.** It's one of inclusion and acceptance?
- 22 **A.** Yes.
- 23 **Q.** And of course being at an all boys school there can --
- 24 | well, not even necessarily an all-boys school -- but an
- 25 all-boys school can pose some challenges towards CIE; is that

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1
    fair?
 2
             MS. MCGUINN:
                            Objection.
 3
             THE COURT: Vague. Sustained.
 4
    BY MR. NIETO:
         Sir, during your employ at Gilman, have you heard Gilman
 5
 6
    students use racial epithets?
 7
             MS. MCGUINN: Objection.
             THE COURT: Overruled.
 8
 9
             THE WITNESS:
                            Sorry?
10
             THE COURT: You may answer.
11
             THE WITNESS: Yeah, thanks.
12
         I don't know if I've heard students say them.
13
    heard of students saying them, if that distinction makes sense.
    BY MR. NIETO:
14
         Forgive me, sir. Do you recall a midday faculty meeting,
15
    0.
16
    maybe in 2018 or 2019, in which a member of the Gilman faculty
17
    or administration was relating a story regarding a student that
    had used the N word?
18
19
             MS. MCGUINN:
                            Objection.
20
             THE COURT: Overruled.
21
    BY MR. NIETO:
22
    Q.
         Do you remember that, sir?
23
    Α.
         2019?
24
    Q.
         Ballpark?
25
    Α.
         I think so, yeah.
```

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- 1 \mathbf{Q} . And in fact the teacher or the administrator, in the
- 2 process of telling the story, used the N word with the hard R
- 3 as part of that story. Do you remember this?
- 4 A. I don't remember that.
- $5 \mid \mathbf{Q}$. Do you remember that administrator or faculty member
- 6 having to come back later to then apologize to members of the
- 7 | faculty for using that language?
- 8 A. Yes. Sorry, now I do remember. That was me.
- 9 **Q.** That was you?
- 10 **A.** Yes.
- 11 **Q.** Now, Gilman is pre-K to 12th grade correct, sir?
- 12 A. Correct.
- 13 **Q.** All right. Now, pre-K is for children at the age of four?
- 14 A. Correct.
- 15 **Q.** All right. Now, the pre-K tuition to attend the Gilman
- 16 | School, do you know how much that is?
- 17 MS. MCGUINN: Objection.
- 18 THE COURT: Sustained. Next question.
- 19 BY MR. NIETO:
- 20 **Q.** There is a tuition that is required to be paid in order to
- 21 attend the pre-K classes at Gilman, right.
- 22 A. Correct, yes.
- 23 **Q.** And, of course, that can also help families with their
- 24 children if they get into pre-K and kindergarten, that may help
- 25 pave the way for them to get into lower and upper schools; is

1 | that true?

- 2 A. No. Once they're in prekindergarten they don't reapply
- 3 | for the school. So that's an entry point for the school.
- 4 Q. All right. Okay. So, again, this is -- you're proud of
- 5 | working at Gilman, right?
- 6 **A.** Yes.
- 7 **Q.** It's a wonderful institute of education?
- 8 **A.** Yes --
- 9 **Q.** Right. And so --
- 10 **A.** -- I think so.
- 11 **Q.** And so people aspire to go there, don't they?
- 12 A. Some do.
- 13 **Q.** And so, I mean, you don't accept every applicant, right?
- 14 **A.** Correct. And not everybody applies either. So not
- 15 everybody aspires to attend.
- 16 **Q.** Of course, sir. But I'm saying, you're not running short
- 17 of students at your school, are you?
- 18 A. We are not, correct.
- 19 **Q.** You can be selective?
- 20 A. Correct.
- 21 **Q.** Maybe exclusive if you so desire?
- 22 A. If that's selective.
- 23 **Q.** Yes. I mean, you know, people in middle school or people
- 24 | in high school that want to go to the school, if you've been a
- 25 member of the Gilman community since the age of 4, you're

- 1 | already in, right?
- 2 A. Right. Unless you fail out or get kicked out or whatever
- 3 | it might be.
- 4 Q. Now, I'd like to draw your attention to Exhibit 13. This
- 5 | is -- this is the Gilman School; is it not?
- 6 **A.** Yes.
- $7 \mid \mathbf{Q}$. All right. This is a large campus; is that fair to say?
- 8 A. Yes, about 55 acres, I think.
- 9 **Q.** 55 acres in the city?
- 10 **A.** Yes.
- 11 **Q.** And so there's three schools here?
- 12 A. Three. We call them divisions. Lower, middle, and upper.
- 13 Lower School, middle school, and upper school.
- 14 **Q.** All right. An athletic center?
- 15 **A.** Yes.
- 16 **Q.** A pool?
- 17 **A.** Yes.
- 18 **Q.** A gym?
- 19 **A.** Yes.
- 20 **Q.** A stadium?
- 21 **A.** Yes.
- 22 **Q.** Multiple athletic fields?
- 23 **A.** Yes.
- 24 **Q.** Employee housing as well?
- 25 A. Correct.

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- 1 **Q.** And there's tennis courts?
- 2 **A.** Yes.
- 3 | Q. I think you had said -- I don't want to put words in your
- 4 | mouth -- at your school you have lawyers, right, on retainer?
- 5 **A.** Yes.
- 6 Q. And I understand, sir, that you're not currently teaching
- 7 but as the head of school, right, one of the things that the
- 8 teachers are instructed to do is to teach students to report
- 9 wrongdoing, right?
- 10 **A.** Yes.
- 11 **Q.** General counsel or advice about violence, right? See
- 12 | something, say something? That sort of stuff?
- 13 **A.** Yes.
- 14 Q. And the school helps provide guidance and counsel to
- 15 encourage students to speak up if something is wrong?
- 16 **A.** Yes.
- 17 **Q.** And of course, the Gilman School, one of its attributes is
- 18 | its network; is that fair?
- 19 A. Yeah, I think so.
- 20 **Q.** I mean, there are many Gilman graduates that have ascended
- 21 to impressive positions professionally in the state of Maryland
- 22 and elsewhere, right?
- 23 A. True, yeah. I think that's fair.
- 24 **Q.** That's fair to say, right?
- 25 **A.** Yeah.

- 1 Q. Right. Sure. And of course you have these career
- 2 networking events with alumni and students to sort of help move
- 3 | them forward, right?
- 4 **A.** Yes.
- 5 **Q.** And of course attending this school is not free, is it?
- 6 A. Correct.
- 7 **Q.** Now, you do have financial aid, right?
- 8 **A.** Yes.
- 9 **Q.** But it's still -- its for-profit high school? Sorry,
- 10 | for-profit school?
- 11 | A. We're not a for-profit school, no. We charge tuition but
- 12 | we're not a for-profit school.
- 13 \mathbf{Q} . All right. But the tuition obviously has to be able to
- 14 support 55 acres of campus as well as, what, 300 teachers'
- 15 | salaries?
- 16 **A.** Fewer than that, 250, but yes.
- 17 **Q.** 250, all right. And of course when families invest into
- 18 | their sons' futures through the Gilman School there are certain
- 19 expectations that can go along with that, right?
- 20 A. Sure. Yes.
- 21 **Q.** Families can be demanding?
- 22 **A.** Yes.
- 23 **Q.** Yeah, absolutely.
- 24 Thank you so much.
- MR. NIETO: Nothing further, Your Honor.

THE COURT: No editorial comments, please, Counsel. 1 2 Thank you. 3 Redirect? MS. MCGUINN: Thank you. 4 REDIRECT EXAMINATION 5 BY MS. MCGUINN: 6 Mr. Smyth, in addition to your students being taught to if 7 Q. you see something say something, are your teachers held to that 8 same standard? 10 Α. Yes. 11 And if your teachers saw students who were under age Q. 12 drinking, would you expect them to report that? 13 I would. Α. 14 Would you expect your teachers to take children while they 15 were drunk to run naked in a park? No, I would not. 16 Α. 17 Would you expect your teachers to pick up underaged Q. 18 students from your school at parties when they were drunk to 19 give them a ride home subverting their parents' attention? 20 Α. Not -- no. I would not. 21 MS. MCGUINN: I have no other questions, Your Honor. 22 THE COURT: May the witness be excused? 23 MS. MCGUINN: Yes, Your Honor.

Ronda J. Thomas, RMR, CRR - Federal Official Reporter

May he be excused?

Yes, Your Honor.

24

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THE COURT:

MR. NIETO:

THE COURT: Sir, you are excused and you may depart.

THE WITNESS: Thank you.

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THE COURT: Ladies and gentlemen, we have come to the end of the court day and also we have come to the end of the court week. In a few minutes I will dismiss you to return on Monday to resume your role as jurors. You have now heard some of the evidence presented during this trial, but obviously there's still a great distance to travel and much more information to be presented to you which you have not yet heard.

So the important point is that you realize where you are in this process. That you do not have all of the information, data, and evidence that's going to be presented to you. you have an obligation to keep an open mind and not reach any conclusions about anything at this point because this process is not complete. It's far from complete. You have a weekend ahead of you.

So my advice to you is, you've all been paying very close attention today, I've watched each and every one of you, I know what importance you are giving this, but now it's time to give it a break. And don't dwell on this or focus to any great extent on it. To the extent it comes in your mind, remind yourself that you've got a long way to go and a lot of additional information to take on board before you're in any position to start to form any conclusions about anything in

this case. So give yourselves a break. You're going to go off duty in a few minutes. Spend your weekend doing something hopefully that brings you some rest and relaxation and get plenty of sleep. And then come back here on Monday, and we will continue on with the trial process.

While you're on this recess until Monday morning, do not discuss the case with anyone, do not discuss it with your fellow jurors, do not discuss it with any of your friends or family. Remember, to the extent that someone asks you about your jury service, you may only tell them that you are serving on a jury in federal court, that you're serving in a criminal case, that the trial is expected to last about two weeks, that you've been instructed by the judge that you're not allowed to talk to them about the case. And that you would be happy to speak with them once the trial has been completed. If that's true, it's up to you then. You can continue to not talk to anyone about this if that's your choice. It's just that you won't be under any restriction from me once the trial has ended.

Do not allow yourselves to be exposed to any news articles or reports or social media or news sites or apps or anything that might touch upon this case or the issues it presents or the participants in the trial. Avoid all contact of any kind with any of the participants in the trial.

Do not make any independent investigation of the law or

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the facts relevant to this case. Do not conduct internet searches with respect to the issues presented and the persons participating in the trial. Do not consult external sources such as an encyclopedia or dictionary in reference to the issues and terms that have been presented to you here.
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Now, please return promptly on Monday morning. Once again, we will plan to resume at 9:30. My advice from last night still holds, aim to get here about 9:15 or so, maybe parking the car by 9:00, 9:05 so that you have plenty of time to get up here. And then you gather once again in the jury room. I think you've all got that sorted out.

You are excused until 9:30 on Monday morning. Please take the jury out.

(Jury exits at 5:17 p.m.)

THE COURT: Be seated, please. Okay. Counsel for the Government, who's up next?

MS. MCGUINN: Your Honor, we believe Monday morning we will be calling Stacy Halpert, Christopher Feiss, Jack Stuzin, Tyler Witherspoon, DeAnna Komber. Certainly depending how the day is looking, we believe we can call late morning/afternoon, Detective Shannon Markel of the Baltimore County Police, Agent Eric Oberly, who is the Government's digital forensics expert, and Agent Calista Walker.

The defense has agreed we're doing it in parts. She's doing part one as to the sexual exploitation. We'll do other

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witnesses and then she'll address the cyberstalking portion of
 1
 2
    the case.
 3
             THE COURT: Okay. So the lay witnesses that you
 4
    ticked off right at the start, it sounds like you expect them
 5
    to be relatively short witnesses?
             MS. MCGUINN: From the Government's perspective, yes.
 6
 7
    So we will have all of them ready to go. And then Detective
    Markel and Agent Oberly and Agent Walker we expect to be a
 8
 9
    little bit more lengthy. And then we will have one or two
10
    others ready if for some reason we finish with all of those
11
    people Monday.
12
             THE COURT: Well, that would be impressive if you were
13
    able to accomplish that.
             MS. MCGUINN: We'll dance as fast as we can.
14
             THE COURT: That's a lot of witnesses but thank you
15
16
    for that disclosure.
17
         Are there any issues to be addressed before we adjourn for
18
    the weekend from the Government?
19
             MS. MCGUINN: Not from the Government, Your Honor.
20
             THE COURT: Thank you. From the defense?
21
             MR. PROCTOR: Your Honor, I anticipate filing a
22
    motion, I'd hoped to do today. I have witnesses coming up over
23
    the weekend, just to alert you. I suspect it'll be filed by --
24
    there are two exhibits the Government plans to introduce that
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we don't think, at least in their current format, are

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admissible.
                So I'll get that filed. I just wanted to alert
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 2
    you it's coming.
             THE COURT: And through which witnesses might these
 4
    exhibits be -- may the admission be attempt?
             MR. PROCTOR:
                          If you give me a second, Judge. I know
    they're Exhibits 94 and 95. So if we look at -- Markel,
    Officer Markel.
             THE COURT: What is 94? And what is 95?
 8
             MR. PROCTOR: It's called a Certificate in Support of
    Authenticity of Business Records and Other Evidence. And, you
11
    know, if the report said -- if the exhibit merely said, we
    plugged the device into Cellebrite and we got something on it
13
    that would be fine. But it starts off saying things like, I've
14
    been investigated and trained to investigate physical child
    abuse, missing and runaway children. What that's got to do
16
    with plugging a device into Cellebrite, I don't know.
                                                             I know
17
         So our position is that exhibit is not admissible.
    you're not going to want to take it up with a jury sitting
19
    there so I was going to flag it with a motion.
20
             THE COURT: Sounds like it's something that can be
21
    cleaned up. If it's just a certificate that's going to assist
22
    in self-authentication, is that it?
             MS. HAGAN: Yes, Your Honor. For both of the victims'
23
24
    devices.
             THE COURT: So meet with counsel --
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1 MS. HAGAN: Yes.
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THE COURT: -- after I leave the bench here. Look at the exhibit. See what's drawing the exhibit. See if the exhibit can be modified by agreement down to the bare essentials necessary to serve its purpose, which is to be a springboard for any -- I take it for an exhibit or data that under the rules in the Government's view doesn't require the presence of a live witness.

MS. HAGAN: Very well, Your Honor, yes.

THE COURT: Is that what this is?

MS. HAGAN: Yes. They are both from the Baltimore County police detective who did the extractions for both of

THE COURT: All right. Well, it sounds like Mr. Proctor is going to be ready to agree that the certificate is still functional even if it does not include indicia of the skills and qualifications of the Cellebrite inserter.

MR. PROCTOR: That's correct, Judge.

THE COURT: Just, I did it, my name is so and so, I took this device, I applied this application, and here's the result of my doing that.

MR. PROCTOR: That would be perfectly acceptable. If the Government wants to write up a stipulation if that's easier we'll so stipulate.

THE COURT: Okay. So it could be the subject of a

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stipulation.
                  But to the extent that we're smoking this out,
 1
 2
    we're not going to then hear a defense objection that we've got
    an inadequate certificate or lack of foundation because we
 3
 4
    don't know anything about the qualifications of the person who
 5
    ran the test.
             MR. PROCTOR:
                           Correct. And no part of our argument is
 6
 7
    going to be, well, how do we know that was the victim's cell
 8
    phone.
 9
             THE COURT: You just don't want gratuitous
10
    qualifications thrown in for a person who's not here.
11
             MR. PROCTOR:
                           It's our position that what they've done
12
    for the last 16 years of the career have no moment to the
13
    evidence extracted.
             THE COURT: On the surface, sounds like we don't have
14
15
    a problem.
16
             MS. HAGAN:
                         Correct, Your Honor. We can certainly
17
    type up a stipulation that they're willing to agree to.
18
    were previously advised that they would not be stipulating to
19
    anything but we can certainly --
20
             THE COURT: You're ready to stipulate to the
21
    admissibility of the data?
22
             MR. PROCTOR: Especially now that the victim has
23
    testified to it, yes, there will be no objection.
24
             THE COURT: Okay. Thank you for raising that issue.
```

Sounds like we're going to have this one resolved in the next

25

```
1
    ten minutes.
                           I'm sorry, Judge. I just realized I was
 2
             MR. PROCTOR:
 3
    sitting down. I meant to stand up.
 4
             THE COURT: Do you have any other easy ones,
 5
    Mr. Proctor?
             MR. PROCTOR: You'll be pleased to know I've got
 6
 7
    nothing.
             THE COURT: Okay. Thank you. The Defendant is
 8
    remanded to the custody of the marshal. Counsel are excused.
 9
    Court's adjourned for the day. We will resume this trial at
10
    9:30 on Monday morning.
11
             THE CLERK: All rise. This Honorable Court is now
12
13
    adjourned.
         (Court adjourned at 5:23 p.m.)
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Ronda J. Thomas, RMR, CRR - Federal Official Reporter

CERTIFICATE OF OFFICIAL REPORTER I, Ronda J. Thomas, Registered Merit Reporter, Certified Realtime Reporter, in and for the United States District Court for the District of Maryland, do hereby certify, pursuant to 28 U.S.C. § 753, that the foregoing is a true and correct transcript of the stenographically-reported proceedings held in the above-entitled matter and the transcript page format is in conformance with the regulations of the Judicial Conference of the United States. Dated this 17th day of February 2025 Ronda J. Thomas Ronda J. Thomas, RMR, CRR Federal Official Reporter

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